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# UNACKNOWLEDGED AND UNPROTECTED: LESBIAN, GAY, BISEXUAL AND TRANSGENDER PEOPLE IN KAZAKHSTAN

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# FOREWORD

This first ever report on the human rights situation of lesbian, gay, bisexual and transgender (LGBT) persons in Kazakhstan coincides with an important moment for the country: Kazakhstan will take up the chairmanship of the Organisation for Security and Cooperation in Europe (OSCE) in 2010. Founding principles of the OSCE are respect for human rights, equality, security and dignity for all human beings. This applies of course as well for LGBT persons.

However, for a long time this was not explicitly acknowledged and human rights of LGBT persons have long been absent from the international human rights agenda. They were gradually taken on board and it has now been clarified that human rights apply to all, regardless of sexual orientation or gender identity. On the European continent the European Convention on Human Rights (ECHR) has played a crucial role in clarifying that sexual orientation is an acknowledged discrimination ground. The European Court for Human Rights held same-sex consensual acts between adults should not be criminalised and that LGBT persons and organisations enjoy the same freedom of assembly as anyone else. Moreover the Court has stated that exclusion of individuals from the application process for adoption of a child simply because of the applicant's sexual orientation is discriminatory.

Regarding gender identity discrimination, the same Court set important minimum standards regarding the recognition of a transgender person's sex change in identity documents. The Court also ruled that States should provide transgender persons the possibility to undergo surgery leading to full gender reassignment and that this surgery should be covered by insurance plans as "medically necessary" treatment. The UN Committee on Economic, Social and Cultural Rights recently stated that "gender identity is recognized as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the work place."

The report which you have now in front of you, is the first effort to take a closer look at the position of LGBT persons in Kazakhstan and to assess whether Kazakhstan meets these international human rights standards in theory and in practice.

In the preparation of this report, I had the honour and opportunity to assess the situation 'on the ground' and to meet a number of dedicated and hard working LGBT activists in Kazakhstan. They shared with me their stories of their lives and their problems. They told me about the silence on the part of the authorities to address LGBT human rights issues and about the homophobia persisting in society. I believe that the sociological research conducted in this report gives a good overview of how LGBT persons in Kazakhstan live their lives and the problems they face. The unfamiliarity with and lack of education about sexual orientation and gender identity needs to be addressed in future educational and training programmes. The chapter on the health situation of LGBT persons shows another side of the reality many

LGBT persons in Kazakhstan live in. Mental health problems, fear to come-out to family and friends and the fear to become a victim of violent attack are some of the problems.

I believe there is an opportunity for the country to draw inspiration from the global and European legal frameworks and to improve the protection of LGBT people in Kazakhstan. A very important framework in this regard is the Partnership and Cooperation Agreement between the European Communities and Kazakhstan. The preamble to this Agreement recognises "the paramount importance of the rule of law and respect for human rights, particularly those of minorities."[1] It goes without saying that LGBT human rights as universal human rights are part of this Agreement between the EU and Kazakhstan.

The universality of human rights and the place LGBT human rights deserve in this global regime is also the point of departure on 18 December 2008 when Argentina delivered a joint statement at the United Nations General Assembly (UNGA) which is now supported by 67 member states.[2] The statement repeats the principles of universality of human rights and of non-discrimination, regardless of sexual orientation and gender identity, condemns human rights violations such as torture, arbitrary arrest, violence and discrimination, calls for protection of human rights defenders and the bringing to justice of the perpetrators of human rights violations on the basis of sexual orientation and gender identity. Kazakhstan was unfortunately not among the signatories but it is still not too late for the country to sign up to the statement.

Another framework for inspiration for the country to improve its legal protection of LGBT persons is the Yogyakarta Principles.[3] This document contains an elaborated list of human rights provisions drafted by applying existing binding international human rights law provisions in relation to sexual orientation and gender identity. The Yogyakarta Principles are an interpretation of existing law and build a detailed action programme for legal reform, an educational tool to illustrate the message that LGBT individuals are entitled to the same protection of their human rights as everybody else.

The 2010 chairmanship of the OSCE provides an excellent opportunity for Kazakhstan to increase its efforts to improve the human rights of LGBT persons and develop concrete programmes and policies. This report contributes to a better understanding of the challenges ahead.

***Dennis van der Veur***

*Dennis van der Veur worked at the Office for Democratic Institutions and Human Rights (ODIHR) of the OSCE. Since 2007 he is Adviser on LGBT human rights at the Office of the Council of Europe's Commissioner for Human Rights.*

[1] Since Article 13 in the Treaty of the European Communities (1997), combating sexual orientation discrimination became part of the EU human rights agenda.

[2] The statement is not a resolution or decision and was not subjected to a vote. For the text, see: http://www.ilga.org/news_results.asp?LanguageID=1&FileCategory=44&ZoneID=7&FileID=1211
and the GA webcast archives, 19 December 2008, at: http://www.un.org/webcast/ga2008.html

[3] The Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual orientation and Gender identity. Available at: http://www.yogyakartaprinciples.org

# EXECUTIVE SUMMARY

## The Legal Status of LGBT People under International and Domestic Law in Kazakhstan

1. Since the removal of criminal responsibility for sodomy from the criminal law of Kazakhstan, and in relation to the adoption of the new Criminal Code, the legislation of the country has not included any criminal or legal sanctions in relation to LGBT people. The only exception is made with respect to violent actions, sexual intercourse with a person below the age of consent, and coercion to sexual intercourse.

2. The Republic of Kazakhstan has signed several international treaties on human rights, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which prohibit discrimination on any grounds, including (as it follows resolutions of the UN Committee on Human Rights) discrimination on the ground of sexual orientation. Kazakhstan is also a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination, which, by analogy, stipulates the principal requirements for prohibition and prevention of discrimination on any grounds.

3. The legislation of Kazakhstan prohibits discrimination on a number of grounds including "on the ground of any status." This obviously includes discrimination on the grounds of sexual orientation. Nevertheless, there is no special anti-discriminatory legislation in Kazakhstan that also includes prevention of discrimination on the grounds of sexual orientation. There is no definition of discrimination in Kazakh legislation. There are also no anti-discriminatory bodies or procedures in Kazakhstan as noted by the UN Committee for Elimination of Racial Discrimination in response to the official report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination submitted by Kazakhstan.

4. Principal characteristics of Kazakh legislation with regard to provision of the rights of LGBT people are the absence of explicit discriminatory clauses against homosexual people and, at the same time, the absence of any mention of the rights of LGBT people, as well as of any legal tools for their protection from discrimination in all areas of life. In other words, the main deficiency of the Kazakh legislation in this area is the absence of legislative prohibition of discrimination on the ground of sexual orientation in different branches of the law (first and foremost in criminal and labor law). This creates the pre-conditions for the violation of rights and discrimination of LGBT people in various areas of life. In legal practice there have been no documented precedents of any cases against discrimination on the ground of sexual orientation and it may be well judged that there have been no such court cases.

5. Kazakhstan does not recognize same sex marriages or same sex partnerships.

## Sociological Research on Discrimination of LGBT People in Kazakhstan

A considerable segment of LGBT people in Kazakhstan face discrimination and prejudice on the grounds of their sexual orientation or gender identity during the course of their everyday lives.

Manifestation of negative attitudes toward LGBT people, such as social exclusion, taunting, and violence often cause the victims physical, psychological and emotional harm. In order to avoid the dangers posed by homophobes and transphobes, many LGBT people feel compelled to keep their sexual orientation or gender identity a secret from almost all people in their lives.

LGBT people in Kazakhstan are acutely aware of the negative attitude toward them that prevails among those in the general public. As many as 81.2% of respondents indicated that LGBT people are generally treated disapprovingly and without respect by people in society.

Given the levels of antagonism, it is not surprising that this research revealed a general fear and disinclination on the part of LGBT people to come out[4] to co-workers, acquaintances and even close friends. However, one in three LGBT people said they had shared information about their sexual orientation or gender identity with at least one relative.

Upon discovering a person's sexual orientation or gender identity, friends and relatives of LGBT people treated them in a variety of ways, ranging from warmth and acceptance, to rejection and isolation, to hostility and violence. The majority of respondents (53.1%) regard it as necessary to conceal their sexual orientation or gender identity from people in the workplace in order to retain their jobs and avoid hostility from bosses and co-workers. Few complained of employment discrimination; the majority (64.1%) said they had not faced open discrimination in the workplace. The rates of workplace discrimination might reasonably be expected to be higher were LGBT people not pre-empting such conflict by keeping their sexual orientation and gender identity secret. Those cases of workplace discrimination that were reported by LGBT people included dismissal from a job and denial of promotion because of the employee's sexual orientation, as well as psychological abuse and social exclusion by colleagues.

[4] Coming out is the voluntarily disclosure of one's sexual orientation or gender identity. By contrast, to be outed or forcibly outed is to have one's sexual orientation or gender identity revealed against one's wishes.

LGBT people told researchers that, as students, they had often suffered physical assault and psychological abuse, including taunts and threats, by classmates and teachers.

Fearing a negative response, the majority of respondents (64.8%) deliberately conceal their orientation from neighbors and landlords. This survival strategy is relatively effective; 66.2% of respondents said that neighbors and landlords did not discriminate against them because they were not aware of the respondent's sexual orientation or gender identity. However, it is clear that LGBT people are vulnerable to discrimination and harassment by neighbors and area residents. A number of respondents reported being persecuted by local gangs and hunted by homophobic thugs in the neighborhood. Some were forced to move to another town in order to escape harassment and violence by those in their community.

Research for this report also investigated the issue of prejudice and discrimination against LGBT people by health care professionals. The research found that the majority of LGBT people (66.8%) conceal their sexual orientation or gender identity from doctors and other health care workers in order to avoid discrimination. It was therefore difficult to assess the true extent of anti-LGBT sentiment among health care professionals and the potential for discrimination against LGBT patients. However, it is worth noting that only 4% of respondents said that doctors had treated them less favorably because of their sexual orientation, in the cases when doctors were aware of it. While the number of respondents with such negative experiences was small, their stories of being insulted, denied treatment, and even harassed were powerful and troubling and help highlight the need to address breaches of ethics and fundamental rights of patients by health care workers.

Negative attitudes and outright hostility toward LGBT people were documented among representatives of organized religious institutions. In some cases clergy expressed the view that homosexuality is a "sin" and tried to "cure" or even "exorcise" people of their homosexuality.

A high percentage of LGBT people (at least one in four) experience physical and psychological violence because of their sexual orientation or gender identity. Acts of anti-LGBT violence include beatings, punches, pushes, kicks, sexual molestation, and rape. Nearly one in three LGBT people who had been the victim of homophobic or transphobic violence had been assaulted at least three times or more. In most cases (almost 80%), attacks on LGBT people are committed by private individuals, but in some cases (15%) the perpetrators are police. Classmates, colleagues, acquaintances, neighbors, relatives (one's own or one's partner's), friends and lovers are all implicated in acts of homophobic and transphobic violence. Acts of physical aggression range from spontaneous incidents of domestic abuse or assault by a stranger to premeditated "hunts" and assaults on LGBT

people. LGBT people encountered violence in a range of settings: on the street, in the workplace, at schools and universities, in cafes and clubs, on public transport, private homes, in dormitories, barracks, and police stations. In almost half of the cases reported, physical violence against LGBT people was committed in the presence of witnesses. Attempts to report homophobic and transphobic violence to police are often met with resistance and even hostility on the part of law enforcement officers. Some respondents reported being insulted, threatened and even physically abused by police when they tried to lodge a complaint about an instance of anti-LGBT violence. The hostility of police was one reason respondents cited for a lack of trust in law enforcement and general disinclination to report transphobic and homophobic attacks. Respondents also cited a fear of coming out as a reason for their reluctance to turn to authorities for help.

Half of the LGBT people surveyed reported that they had been the victim of psychological abuse because of their sexual orientation or gender identity. Respondents reported being the targets of threats, insults, hate mail, and involuntary disclosure of their sexual orientation or gender identity (forced outings). In most cases (70.6%), those committing acts of psychological abuse against LGBT people are private individuals. The second-most often cited aggressors were police officers (11.9%). LGBT people are vulnerable to verbal assaults and other forms of psychological abuse almost everywhere they turn. LGBT people reported experiencing acts of psychological aggression in public places, at schools and universities, in the workplace and at home. Respondents said they seldom report such incidents to police, due to a general distrust of law enforcement bodies, and specific fears of hostility by officers or public exposure of the respondent's sexual orientation or gender identity.

**The government of Kazakhstan is urged to:**

- Introduce comprehensive legislation which provides for the right to equality and non-discrimination on all grounds and which specifically lists sexual orientation and gender identity among the protected grounds;
- Take all measures at its disposal to tackle prejudice and discrimination on the basis of sexual orientation and gender identity;
- Introduce legislation which clearly and unequivocally addresses hate crimes;
- Ensure consistent implementation and interpretation across ministries of the legal right of transgender people to change their sex in official documents, in line with international best practice;
- Ensure that same sex couples enjoy the same rights to property and to adoption of children as different sex couples;
- Within its upcoming OSCE Chairmanship, Kazakhstan should include into its chairmanship program supplementary human dimension implementation meetings on democracy, rule of law, human rights, diversity and tolerance, and specifically on the subject of sexual orientation, gender identity and gender expression.

The OSCE should assist Kazakhstan in fulfilling its commitments in the fields of tolerance and non-discrimination and human rights. The Personal Representative of the Chair-in-Office of the OSCE on Combating Racism, Xenophobia and Discrimination should address the Kazakh authorities on human rights violations as documented in this report.

The United Nations Human Rights Council and European Union are urged to raise with the government of Kazakhstan the problem of hate crimes and need for effective legislation to protect the rights and equality of LGBT people.

# I. INTRODUCTION

This report presents the findings of the first study of its kind concerning the rights of lesbian, gay, bisexual, and transgender (LGBT)[5] people and the degree of discrimination[6] they face in different aspects of their lives in Kazakhstan. It aims to fill a gap in the documentation of the legal status of LGBT people in Kazakhstan and to provide a portrait of their lives in the country today. There is no official government data available related to LGBT people, their social and demographic structure or the status of their rights and legal interests. This report provides a first look at the legal and sociological status of the LGBT community in Kazakhstan and attempts to examine the issues that are affecting LGBT people's ability to realize their fundamental human rights.

Researchers investigated the levels of prejudice and discrimination that LGBT people face in the workplace, at school and university, when they seek housing and healthcare, and at other times during the course of their everyday lives.

This report opens with a legal analysis of the status of LGBT people (**chapter II**). This chapter shows that, while the laws of Kazakhstan discrimination "on the ground of any status," they do not provide for specific protection for the rights of lesbian, gay, bisexual and transgender citizens. New legislation is needed to bring Kazakhstan in line with international standards and trends regarding the legal status of LGBT people and to ensure that the discrimination and violence documented in this report do not continue.

**Chapter III** contains extensive first-hand accounts by LGBT people from the sociological research conducted regarding the extent of discrimination against LGBT people in Kazakhstan, as well as expert contributions regarding the ability of LGBT people to realize their rights in specific spheres of life. The research uncovers dramatic and disturbing evidence of homophobic and transphobic antagonism and violence toward LGBT people.[7] Lesbian, gay, bisexual and transgender people who agreed to respond to our survey and share their experiences with us recounted wrenching stories of being humiliated, tormented, and physically and sexually assaulted because of their

[5] Transgender people are those whose bodies at birth do not match their internal sense of their gender identity. The gender that a person considers his or her true self, regardless of the sex he or she was assigned at birth, is called the person's gender identity. How that person appears and acts in accordance with his or her gender identity is referred to as the person's gender expression. (For example, people designated at birth as female, but who identify as male, are female-to-male transgender, or FTM, and are also referred to as transgender men.) A transsexual is a transgender person who opts to bring his or her body into alignment with his or her gender identity through hormone therapy and sex reassignment surgeries. Not all transgender people are transsexual. In addition, not all transgender people are homosexual; gender identity and sexual orientation are two separate issues.

[6] For the purposes of this report, discrimination is defined as the different or worse treatment of a person on the grounds of his or her sexual orientation or gender identity.

[7] Homophobia is the irrational fear of, or hatred toward, homosexuals and homosexuality. Transphobia is the irrational fear of, or antipathy toward, people who are transgender. Homphobic and transphobic acts are those motivated by hatred and prejudice toward people because of their sexual orientation or gender identity or expression.

sexual orientation or gender identity. The testimonies of hundreds of people create a damning record of the failure of police and major social institutions to protect and support LGBT people and their complicity in some of the worst cases of abuse.

**Chapter IV** offers some conclusions, followed by key recommendations.

# II. THE LEGAL STATUS OF LGBT PEOPLE UNDER INTERNATIONAL AND DOMESTIC LAW IN KAZAKHSTAN[8]

## International Legal Standards and Practices Regarding the Status of LGBT People

### International Treaties

Of all international treaties on human rights signed and ratified by Kazakhstan that are relevant to the legal status of LGBT individuals, the most important ones are the international treaties on civil, political, economic, social and cultural rights. However, neither these international agreements, nor another important source of international human rights law – the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention) – contain any direct mention of the rights of LGBT people.

According to the International Covenant on Civil and Political Rights (ICCPR), Article 26: "all persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any grounds such asrace, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

According to Article 2, Paragraph 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), "the States party to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kindas to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Whereas the list of the grounds for the prohibition of discrimination is left open in both the ICCPR and ICESCR (in the treaties' prohibition on discrimination on the grounds of "other status"), this theoretically means that discrimination on the ground of sexual orientation and gender identity also falls into this category. On the other hand, these treaty articles do not give explicit definitions on the precise forms the absence of discrimination should take, and in this respect are mostly declarative.

[8] The following legal summary is excerpted from expert analysis provided in an essay entitled "A brief review of legal regulations related to the status of LGBT people in the legislation of Kazakhstan" by lawyer and human rights defender Evgeniy Zhovtis.

In the landmark case of Toonen v Tasmania State (Australia) case, 1992,[9] the United Nations Human Rights Committee made the necessary clarification. It ruled that the prohibition of discrimination on the grounds of sex in ICESCR, Article 2, Paragraph 2 and ICCPR, Article 26, should be understood also as prohibiting discrimination on the grounds of sexual orientation. More recently, the UN Committee on Economic, Social and Cultural Rights stated that, "gender identity is recognized as among the prohibited grounds of discrimination; for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the work place."

## European Framework

International practice of interpreting provisions of international law in the area of LGBT people's rights is continuously developing. This is evident from review of resolutions of the European Court of Human Rights, which until 1981 rejected complaints that discrimination on the grounds of sexual orientation violated Article 8 (the right to respect for one's private and family life) and Article 14 (prohibiting discrimination on any grounds) of the Convention (European Convention for the Protection of Human Rights and Fundamental Freedoms). After 1981, European practice in this respect changed significantly.

In 1999, for the first time in its history, in the Salgueiro da Silva Mouta Portugal case, Court issued a resolution against violation of the rights of homosexuals based not only on Article 8, but also Article 14. Later, in January 2008, the Court ruled that France had violated both Article 14 and 8 of the Convention, when it denied a lesbian woman the right to adopt a child.

The Parliamentary Assembly of the Council of Europe (PACE) has submitted several proposals to amend the Convention in order to widen the list of anti-discriminatory grounds and to include explicit prohibition of discrimination on the grounds of sexual orientation. However, the Committee of Ministers of the Council of Europe has never adopted these proposals. The PACE recommendation on the "Situation of lesbians and gays in Council of Europe member-states" (Recommendation No.1474, which is not legally binding) reaffirms the decriminalization of voluntary same-sex relations between adults as a condition for membership in the Council of Europe. It recommends that the Committee of Ministers add 'sexual orientation' to the grounds for discrimination prohibited by the European Convention on Human Rights and calls upon the Council of Europe member-states:

[9] Here and later the materials from the brochure by A.Kravchuk "Ravnye – raznye," Centre "Nash mir," 2002, were used for the review of international publications.

- to include sexual orientation among the prohibited grounds for discrimination in their national legislation;
- to revoke all legislative provisions rendering homosexual acts between consenting adults liable to criminal prosecution;
- to release with immediate effect anyone imprisoned for sexual acts between consenting homosexual adults;
- to apply the same minimum age of consent for homosexual and heterosexual acts;
- to take positive measures to combat homophobic attitudes, particularly in schools, the medical profession, the armed forces, the police, the judiciary and the Bar, as well as in sport, by means of basic and further education and training;
- to ensure equal treatment for homosexuals with regard to employment;
- to adopt legislation which makes provision for registered partnerships;
- to recognize persecution against homosexuals as a ground for granting asylum.

In 2001 the Committee of Ministers of the Council of Europe responded to the PACE Recommendation No.1474. In its resolution, the Committee supported the Assembly's concern about the facts of discrimination and violations of the rights of homosexuals and recognized the importance of regulating all forms of discrimination within the framework of the activity of the Council of Europe. The Committee underlined the importance of Additional Protocol 12 to the Convention. However, the Committee decided not to include the notion of 'sexual orientation' in Protocol 12 to the Convention or in Article 14 of the Convention and noted that homosexual persons are protected by the Convention according to the legal regulations of the European Court of Human Rights. The Committee emphasized the need to take measures aimed at suppression of homophobia in education and vocational training.

As for the legislation of the European Union, it is currently developing quite intensively in terms of protection of the rights of LGBT people. As Kazakhstan is not a candidate to join the European Union, all the documents concerning EU domestic legislation are not directly related to the country and application of these is not obligatory. However, Kazakhstan is aiming at closer cooperation with the EU and the Council of Europe. The Parliament of Kazakhstan has made an official statement about its intention to receive observer status under the Council of Europe Parliament Assembly and the EU-Kazakhstan Council has been operating for several years. Moreover, the European Union has adopted a European strategy in Central Asia. In view of the above, it is important to have an understanding of the contemporary situation and current trends in the changes that are made in the legislative systems of the EU as a whole and in the States which are members of it.

In addition, the normative resolution of the Supreme Court of the Republic of Kazakhstan On the Application of International Treaties of the Republic of Kazakhstan adopted on 10 July 2008. According to Paragraph 16 of the resolution, "in case there

are questions requiring an explanation of a technical or juridical nature in the use and interpretation of the norms of an international treaty of the Republic of Kazakhstan, it is recommended that documents and resolutions of the organizations, of which the Republic of Kazakhstan is a member, should be used."[10]

This resolution, first of all, refers to the ICCPR and the ICESCR ratified by Kazakhstan, making it reasonable to study international and foreign practice with respect to securing the rights of LGBT people. If necessary, Kazakhstan's courts can apply this practice, including cases of possible discrimination on the grounds of sexual orientation and gender identity.

## The European Union

The Treaty of Amsterdam, amending the Treaty of the European Union, signed in 1997, has become the first international treaty in which the term "sexual orientation" was mentioned. According to Article 13 of this treaty, the Council of the European Union, acting within the framework of the European Commission's proposals and following consultation with the European Parliament, may take action aimed at combating discrimination on the ground of, inter alia, sexual orientation.

To take these regulations a step further, Council Directive No. 2000/78/the EU was adopted on 27 November 2000. This directive specified the time during which EU member countries are obliged to take every necessary step to eliminate discrimination on various grounds in the area of employment, including on the ground of sexual orientation. The Community Action Programme to combat discrimination (2000/750/the EU), which provided for taking broad measures for combating discrimination, was adopted by the above-mentioned directive. The same directive to accomplish such measures provided substantial funds. Candidates for membership in the EU have also been invited to participate in the programme. In addition, by the time of their accession to the EU, these states must have brought their legislation into complete conformity with the standards established in the European Union. It must have been done even though the actual EU members themselves do not always follow those standards.

Similar intentions were expressed at the European Council in Nice, in 2000, where the European social programme for 2001-2005 was adopted, providing for an effective application of the law against all types of discrimination, including on the ground of sexual orientation. It also provided for an exchange of experience and positive practice in the realization of such policy. The Charter of Fundamental Rights of the

[10] It further states that all questions related thereto should be addressed to the Ministry of Foreign Affairs, the Ministry of Justice and the Prosecutor General's Office of Kazakhstan, e.g. for clarification of the issues concerning the terms of an international treaty, the list of countries participating in the treaty, the agreement, if any, on the list of member-countries in the international treaty, the court practice of applying the international treaty in other countries abroad and other issues.

European Union was adopted at the same meeting. Article 21 of the Charter prohibits discrimination on any grounds, including sexual orientation.

In its Resolution No.A5-0050-2000, dedicated to the observance of human rights in the EU, the European Parliament devoted one section to the rights of the homosexual population of the European Union. Among other things, the European Parliament:

- recommends that EU member-states ensure rights of one-parent families, unmarried couples and homosexual couples, equal to those traditional couples have in the sphere of taxation, as well as social rights and rights of property;
- recommends that EU member-states, if they have not yet done so, make amendments to their legislation to recognize civil partnership between persons of the same sex, and to confer on them the same rights and duties as provided for the civil partnership between a man and a woman;
- recommends that those states that have not officially recognized civil partnership change their legislation to incorporate official recognition of such partnership irrespective of the partners' sex;
- considers that EU member-states should achieve rapid progress in the mutual recognition of various legal types of extra-marital life and legal marriages between persons of the same sex;
- notes, however, that European citizens continue to suffer from discrimination and are placed in an unequal situation in their private life and professional activity depending on their sexual orientation, and therefore recommends that the member-states and the appropriate EU organizations improve the situation.

## European Countries

The national legislation in European countries varies greatly with respect to recognition or different rights of LGBT people. Thus, criminal sanctions for discrimination on the grounds of sexual orientation, as well as for hostility and harassment on the ground of sexual orientation, have been applied in countries such as Ireland, Iceland, Spain, Lithuania, Luxemburg, the Netherlands, Norway, Romania, Slovenia, Finland, France, the Czech Republic, and Sweden (limitations and area of application of the sanctions vary). Labor legislation in Denmark, Finland, France, Luxemburg, Ireland, Slovenia, Sweden and Switzerland contains prohibition of discrimination on the grounds of sexual orientation in employment (concrete forms vary in different countries).

The differences in the legislative system of different states with regard to family and civil law are particularly significant. This area is one of the most controversial in terms of regulation of LGBT people's rights. The institution of same sex civil partnership

functions in one form or another in Denmark, the Netherlands, Portugal, France, the UK, Iceland, Norway, Sweden, Switzerland, Finland, Germany, Hungary, and Spain. The right of joint adoption of children by homosexual couples is confirmed in the legislation of the Netherlands (and in other countries of the world, for instance, in three provinces of Canada). Rights for immigration are granted to foreign homosexual partners in the Netherlands, Denmark, Germany, Iceland, Sweden, Norway, and, with certain limitations, in Belgium, Finland, the UK and France.

In other countries of the world, the difference in approaches to issues of legal regulation of the life of LGBT people is much greater – from criminal prosecution and total rejection to acceptance to a degree comparable with the most liberal countries of Europe. It should be noted that the legal regulation of homosexual persons' status has begun to develop rapidly towards recognition of their rights in recent years. However, it is characterized by the lack of a general and unified approach, which makes it more difficult to examine the observation these rights, for want of clear standards of law. Where these standards have not yet been developed, the principle of equality and non-discrimination of LGBT people prevails.

## Kazakhstan Legislation

Examining the status of LGBT people in Kazakhstan in connection with the legal regulation of this status, one can make the following observations. Since the time criminal responsibility for sodomy[11] was excluded from the criminal legislation of the Republic of Kazakhstan, and due to the adoption of the new Criminal Code of the Republic of Kazakhstan,[12] the legislation of Kazakhstan does not include any criminal sanctions on the grounds of sexual orientation, except for cases of violent actions, sexual intercourse with a person under 16 years of age, and coercion to engage in sexual intercourse.

The applicable Criminal Code of the Republic of Kazakhstan, which entered into force on 1 January 1998, provides for criminal responsibility only for "acts of a sexual character," include "sodomy, lesbianism, or other acts of a sexual character accompanied by violence or a threat of violence with regard to a given victim (male or female), or to other persons, or with the use of the helpless state of a given victim" (Article 121), for "sexual intercourse, sodomy, or lesbianism or other acts of a sexual nature, with a person who had not reached sixteen years of age, the guilty party being aware of that fact"(Article 122), and for "coercion of a person to engage in sexual intercourse, sodomy, lesbianism, or the commission of other actions of a sexual character by way of

[11] See: the Criminal Code of the Kazakh Soviet Socialist Republic adopted on 22 July 1959 (with amendments and additions).

[12] See: the Criminal Code of the Republic of Kazakhstan adopted on 16 July 1997 (with amendments and additions).

intimidation, threatening with destruction, damage, or withdrawal of property, or with the use of material or other dependence of a victim"(Article 123). "of a sexual character" the same aggravating factors and entail the same sanctions as cases of heterosexual rape (Article 120).

The age of consent, i.e. the age of a partner at which voluntary sexual intercourse does not entail criminal responsibility, is determined as 16 years both for heterosexual and homosexual relations. Violent homosexual intercourse between women has only been considered a sexual crime since 1998.

In general, the basic characteristics of Kazakh legislation, with respect to LGBT people's rights, are as follows. It has no direct discriminatory regulations concerning homosexual persons, but, at the same time, no rights of LGBT people are mentioned there, and it contains no mechanisms for legal protection against discrimination in various aspects of their life.

The inability to ensure the rights of LGBT people and to find effective means for their legal protection leads to violation and abuse in legal practice, which LGBT people encounter in their everyday lives.

As has already been noted, Kazakhstan legislation does not contain regulations that are explicitly discriminatory against LGBT people. At the same time, it does not mean that if there is no legal discrimination it does not actually exist, both in actual practice and in the form of gaps in the legislation, which allow such practice. For example, an explicit prohibition on any discrimination on the grounds of sex, nationality or religion makes all the privileges or restrictions of rights based on these grounds illegal.

In the case of sexual orientation and gender identity, the answer to the question whether these qualities or grounds fall under the jurisdiction of anti-discriminatory provisions of the Constitution and related laws depends entirely on the position of courts and the prosecutor's office. No legislative clarifications on this issue can be found in the current legislation or in the resolutions of the Supreme Court or in the resolutions adopted by the Constitutional Council.

'Sexual orientation' is not explicitly referred to in Kazakh legislation as a prohibited ground for discrimination. According to the Constitution of Kazakhstan, Article 14:[13] "1. Everyone shall be equal before the law and court. 2. No one shall be subject to any discrimination for reasons of origin, social, property status, occupation, sex, race,

[13] See: The Constitution of Kazakhstan (adopted at the national referendum on 30 August 1995) (with amendments and additions as of 21 May 2007).

nationality, language, attitude towards religion, convictions, place of residence or any other circumstances."

Although sexual orientation is not explicitly mentioned in Paragraph 2 of Article 14 of the Constitution, it obviously falls under the definition of "circumstances." However, this issue has never been clarified in any academic or legal comments to the Constitution.[14]

Comments by a group of non-governmental organizations[15] to the official report of the Republic of Kazakhstan on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICEAFRD),[16] submitted to the UN Committee on the Elimination of Racial Discrimination (CERD), contain some conclusions and recommendations related to the absence of anti-discriminatory law and anti-discriminatory institutions and procedures in the country. The NGO commentary noted that the current legislation of Kazakhstan provides no normative definition of discrimination. It also stated that the absence of a determined normative definition of discrimination on any of the grounds listed in the Constitution in the legislation enables the law enforcement bodies to interpret this constitutional regulation. It means that there are no guarantees that such interpretation will conform to the requirements of Article 1 of the ICEAFRD. The non-governmental organizations therefore recommended that the government introduce a definition of the term "discrimination" into applicable legislation which would conform to the one defined in the ICEAFRD.[17]

The Commentary also stated that in its official report about the fulfillment of the International Convention on the Elimination of all forms of Racial Discrimination, the Kazakh Government refers to only three normative legal acts containing regulations on the equality of rights among citizens: the Constitution of the Republic of Kazakhstan, the Code of the Republic of Kazakhstan of Administrative Offences, and the Criminal Code of the Republic of Kazakhstan. , the constitutional principle of equality of rights (of general equality before the law and justice) is also presented in a number of normative legal acts of Kazakhstan: in the Civil Code, the Civil Procedural Code, the Criminal Procedural Code, and in the laws On Labour in the Republic of Kazakhstan, On Family and Marriage, On Citizenship of the Republic of Kazakhstan, On Public Associations, On Political Parties, On Public Service, On Education, others.

14 See: e.g. Academic and Legal Commentary to the Constitution of Kazakhstan (under the supervision of Dr. Sapargaliyev, Corresponding Member of the Academy of Science of Kazakhstan). Source: legal reference system Yurist.

15 Comments to the official report of the Republic of Kazakhstan on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (ICEAFRD) submitted to the Committee on Elimination of Racial Discrimination according to the ICEAFRD, Article 9.

16 CERD/C/439/Add.2, 14 May 2004.

17 Kazakhstan already has the practice of introducing such normative definitions into the legislation. For instance, in conformity with the recommendations of the UN Committee against Torture, the definition of torture was introduced into the criminal legislation in compliance with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

At the same time, it is necessary to note that in Kazakhstan the majority of regulations of normative legal acts concerning the prohibition of discrimination are substantive norms. Accordingly, the applicable laws of Kazakhstan contain insufficient institutional and procedural guarantees of protection of the rights and freedoms of a person and citizen in cases of discrimination. All this makes the defined judicial, criminal, administrative and legal means of protection of the rights of a person and citizen, which would enable one to prevent and to stop the hidden and complex discriminatory practice if it appears, practically useless. (The judicial and criminal means are defined in the Criminal Code and the Criminal Procedural Code of the Republic of Kazakhstan, and the administrative and legal means in the Code of the Republic of Kazakhstan Administrative Offences.)

It is important to note that there are no normative legal acts in Kazakhstan that would explicitly provide for special disciplinary liability for state officials for discriminatory behavior or statements. Actually, in Kazakh legislation there is only one legal norm determining criminal responsibility for discrimination, or rather for violation of equality of citizens. According to Article 141 of the Criminal Code of the Republic of Kazakhstan on Violation of Equality of Citizens: "1. Direct or indirect restriction of the rights and freedoms of a man and a citizen based on motives of origin, social, official, or property status, sex, race, nationality, language, attitude towards religion, convictions, place of residence, or his belonging to public associations, or based on any other circumstances, - shall be punished by a fine in an amount from two hundred up to one thousand monthly assessment indices, or in an amount of wages or other income of a given convict for a period from two to five months, or by detention under arrest for a period up to three months, or by imprisonment for a period up to one year."

Article 164 of the Criminal Code of the Republic of Kazakhstan provides for criminal punishment for incitement of enmity on various .[18] Legislators regard this crime as falling into the category of crimes against the peace and security of the state, as the incitement of hate undermines social principles and leads to destabilization of social and state life. However, the Criminal Code does not currently stipulate responsibility for the incitement of enmity and hate with respect to homosexual people, as these grounds are not provided for in the article.

Finally, in their commentary, non-governmental organizations on human rights noted that no special bodies, either state or regional, responsible for the prevention and elimination of discrimination have ever been established in Kazakhstan. The recommendations made by Kazakh non-governmental organizations found response in the Concluding observations of the UN Committee on the Elimination of Racial Discrimination, made after consideration of the official report of Kazakhstan regarding implementation of the nternational Convention on the Elimination of All Forms of Racial Discrimination.[19]

18 See: the Criminal Code of the Republic of Kazakhstan.
19 See: Concluding observations of the Committee on the Elimination of Racial Discrimination: Kazakhstan. 10/12/2004, CERD/C/65/CO/3.

**Some recommendations made by the Committee concerning the elimination of racial discrimination may also refer to the question of elimination of discrimination on other grounds, including discrimination on the ground of sexual orientation and gender identity.**

According to Paragraph 8 of the Concluding observations, "the Committee notes that there is no specific legislation in the State party regarding racial discrimination. The Committee is also of the view that specific domestic law regarding racial discrimination, implementing the provisions of the Convention, as well as a legal definition of racial discrimination that complies with the provisions of the Convention, would be a useful tool to combat racial discrimination in the State party."

According to Paragraph 9, "while taking note of the constitutional and other provisions prohibiting propaganda regarding racial or ethnic superiority, the Committee is concerned about the insufficiency of specific penal provisions concerning article 4 (a) of the Convention[20] in the domestic legislation of the State party. The committee also recommends that the State party adopt legislation, in the light of the Committee's general recommendation XV, to ensure full and adequate implementation of article 4 (a) of the Convention."

According to this recommendation, Article 4 (a) of the Convention requires that "States Parties declare an offence punishable by law: a) all dissemination of ideas based on racial superiority or hatred; b) incitement to racial discrimination; c) acts of violence or d) incitement to such acts against any race or group of persons of another colour or ethnic origin."

**Thus, the two recommendations of the UN Committee on the Elimination of Racial Discrimination emphasize the systematic problems of Kazakh legislation in the sphere of defining discrimination and the means of combating it. Moreover, the problems concern not only racial discrimination, but also discrimination on other grounds, including discrimination on the grounds of sexual orientation.**

Paragraph 19 of the Concluding observations contains one more important recommendation. According to this paragraph, "the Committee notes the absence of court cases regarding racial discrimination in the State party and that only two complaints of racial discrimination were brought before the Commission on Human Rights in 2000 and 2001. The Committee alsorecommends that the State party ensure that the paucity of complaints is not the result of victims' lack of awareness of their rights or limited financial means, or their lack of confidence in the police and the judicial authorities, or to the authorities' lack of attention or sensitivity to cases of

[20] Related to measures against propaganda and organizations based on the idea of supremacy of one group over others.

racial discrimination. The Committee urges the State party to ensure that appropriate provisions are available in the national legislation regarding effective protection and remedies against violation of the Convention and to disseminate as widely as possible among the public information on the legal remedies available."

A similar conclusion may be drawn about the court practice with respect to discrimination on other grounds, including on the grounds of sexual orientation.

The absence of legal mechanisms protecting homosexual people from discrimination seems a serious problem. In combination with a rather high level of intolerance toward LGBT people, this leads to violations and abuses in the field of law enforcement.

During the years that have passed since the declaration of independence, no steps have been taken to provide in the legislation guarantees of non-discrimination against a minority, including the non-discrimination of LGBT people. For example, the Constitution of the Republic of Kazakhstan confirms that everyone is entitled "to labour conditions meeting the requirements of safety and hygiene, to remuneration for work without any discrimination whatsoever, and also to social security against unemployment" (Paragraph 2, Article 24); and labor legislation does not contain any discriminatory regulations with respect to homosexual people. However, it does not contain any regulations on protection of homosexual people from discrimination with respect to their promotion and dismissal.

As has already been mentioned, the courts have not considered cases involving discrimination on the grounds of sexual orientation in the workplace. This is due not to the absence of discrimination per se, but to the fact that it is difficult to prove that discrimination in employment took place and also to the low judicial culture of the population, including LGBT people; a lack of trust in the mechanisms of rights protection, and an unwillingness to come-out.

The legislation regulating the operation of law enforcement bodies (i.e. units of the Ministry of Internal Affairs, National Security, and the Prosecutor's Office)[21] does not contain explicit prohibition of discrimination on the grounds of sexual orientation as well as on any other grounds. In practice, this may lead to tacit discrimination on the grounds of sexual orientation; refusal to provide help; humiliation and willfulness with respect to LGBT people; and unwillingness on the part of homosexual people to seek assistance from law-enforcement agencies.

21 See: Law of the Republic of Kazakhstan On the Bodies of National Security of the Republic of Kazakhstan of 21 December 1995 No.2710 (with amendments and additions as of 27 July 2007); The Law of the Republic of Kazakhstan On the Bodies of Internal Affairs of the Republic of Kazakhstan of 21 December 1995 No.2707 (with amendments and additions as of 05 July 2007); The Law of the Republic of Kazakhstan On the Prosecutor's Office of the Republic of Kazakhstan of 21 December 1995 No.2709 (with amendments and additions as of 05 July 2007).

Family and civil law is the branch of law in which LGBT people face most indirect discrimination due to the lack of legal regulation. The only legal form of a family union in Kazakhstan is marriage, which is defined as "a union between a man and a woman" (Paragraph 1 Article 1 of the Law On Marriage and Family).[22]

Non-recognition of same sex relationships by Kazakh legislation causes violation of the principle of equality in civil law. A homosexual partner may inherit property only by a last will. Same sex partners paying inheritance tax are at a disadvantage.[23] On termination of actual co-habitation, the partners' personal and property rights related to this are not regulated legally.

In order to fill this vacuum, the civil and legal institute of general partnership or joint activity is proposed as an alternative to marriage or same-sex civil partnership according to Paragraphs 1 and 2, Article 228 of the Civil Code of Kazakhstan.

It is noteworthy that property relations in this case are the only area where same-sex partners may obtain a certain degree of recognition. Obviously, homosexual partnerships concluded in other countries are not recognized in Kazakhstan, due to non-recognition of such type of relationship per se by family law. Kazakh legislation does not provide for any privileges in issuing long-term visas, residence permits, or citizenship for foreign same-sex partners of Kazakhstan citizens.

Joint adoption of children by same-sex partners is not allowed,[24] although legislation allows adoption of a child by one of the partners (Article 80 of the Law On Marriage and Family). Legally, homosexuality does not prevent adoption of children. However, due to the fact that selection of adoptive parents is made by bodies of custody and guardianship with regard to moral and other personal qualities of the potential custodian, the likelihood of a homosexual person becoming an adoptive parent remains purely academic. Access to the procedure of artificial insemination in Kazakhstan is not legally restricted.[25]

Non-recognition of same-sex partners as relatives leads to discrimination of LGBT people in court, when giving testimony, in issues related to visiting a partner in places of detention, and in medical issues. It is difficult to draw up a definitive list of issues where non-recognition of homosexual relationships causes discrimination.

22 See: Law of the Republic of Kazakhstan On Family and Marriage of 17 December 1998 No.321-I (with amendments and additions as of 27 July 2007).

23 See: The Code of the Republic of Kazakhstan on Taxes and Other Obligatory Budget Payments (Tax Code) (with amendments and additions as of 26 May 2008).

24 See: Paragraph 3 Article 80 of the Law of the Republic of Kazakhstan On Marriage and Family: "Persons who are not married to each other, cannot adopt together one and the same child."

25 See: Article 15 of Law of the Republic of Kazakhstan On Reproductive Rights of Citizens and Guarantees of their Enforcement of 16 June 2004 No.565-II (with amendments as of 27 July 2007).

# III. SOCIOLOGICAL RESEARCH ON DISCRIMINATION OF LGBT PEOPLE IN KAZAKHSTAN

## a. Methodology

In addition to drawing on legal analysis, this report is also based on data collected through sociological research using a semi-standard questionnaire as the principal research tool. The questionnaire was administered in the territory of the Republic of Kazakhstan during the period October to December 2008. Representatives of the LGBT community were asked to respond to the questionnaire in person.

The questionnaire contained 30 questions, most of which were closed (multiple choice) questions or semi-closed (with an opportunity to provide one's own answer). There were some open (short answer) questions posed, giving respondents an opportunity to give a brief account of events or feelings. Respondents were allowed to answer all or part of the survey questions. There were 991 respondents to the questionnaire (864 of these respondents answered 80-90% of the questions).

Owing to limited access to the target population, the sampling of respondents was conducted with the help of the "snowball" method. A respondent could introduce an interviewer to another representative of the LGBT community for an interview and then this person could, in turn, identify the next two or three people. The only criterion for the selection of respondents was their sexual orientation or gender identity. Other demographic criteria were not taken into account.

Because this is the first known research of its kind related to the treatment and experiences of LGBT people in Kazakhstan, special measures were taken to capture as much information as possible. For instance, respondents were given the freedom to report experiences from any time in their lives and were not limited to reporting incidents that had taken place only within the last few years.

Due to an understanding that many LGBT people would participate in the survey only on the condition of anonymity, respondents were not required to provide their names or other personal data. Respondents were associated with a respondent number. This number is provided in relevant footnotes throughout the report when testimony is provided by a given respondent.

In order to generate data relevant to the evaluation of protection of the rights of LGBT people, research focused on the following issue areas: social life, settings in

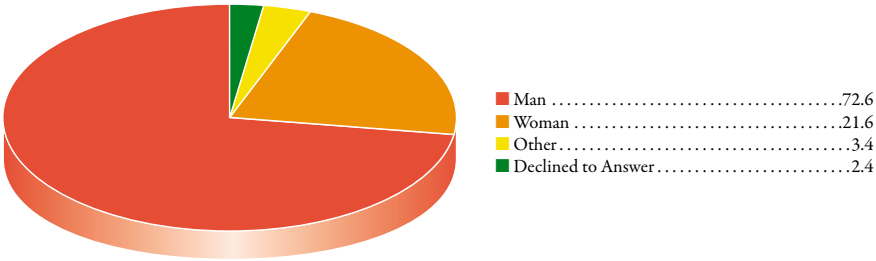
which discrimination is most prevalent, types of discrimination on the grounds of sexual orientation, and the experiences of the LGBT community related to protection or violation of their rights and when seeking legal remedy. The assessment of the situation and conclusions drawn are based on the first-hand experiences of respondents.

## b. Profile of Respondents

The following social and demographic information culled from the research data provides a portrait of the LGBT respondents to our survey and insight into the characteristics of the broader LGBT community in Kazakhstan.

The sample of people who participated in the survey for this report includes more men than women (72.6% and 21.6% respectively); there were cases when respondents declined to answer this question (2.4%) and cases of other gender identification (3.4%).[26]

**FIGURE 1 Breakdown of respondents by gender, % (n=864)**



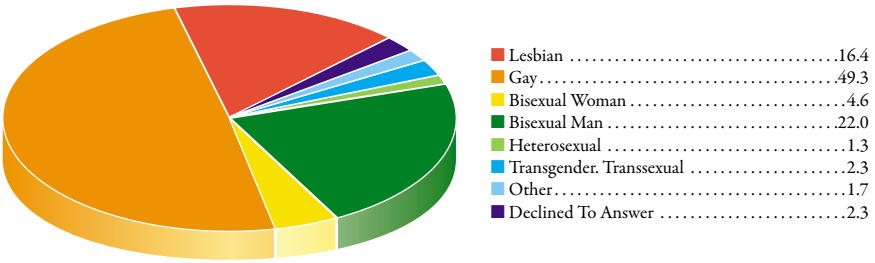

The interview questionnaire presented participants with a list of terms with which they could declare they identify, including terms related to gender identity as well as sexual orientation. Respondents were allowed to select the identity "marker" they felt best applied to them.

About half of the respondents identified themselves as gay (49.3%), almost one in five (22%) identified as a bisexual man. Among women, 16.4 % identified as lesbian and another 4.6% identified as bisexual. People who identified as transgender or transsexual were classified as one group and constituted 2.3% of all respondents.[27] The sample also includes several people who identified as heterosexual (1.3%), but who may feel that they potentially belong to the LGBT group.

[26] Respondents were not given instruction as to whether the question about gender referred to biological sex or gender identity, so answers may vary.

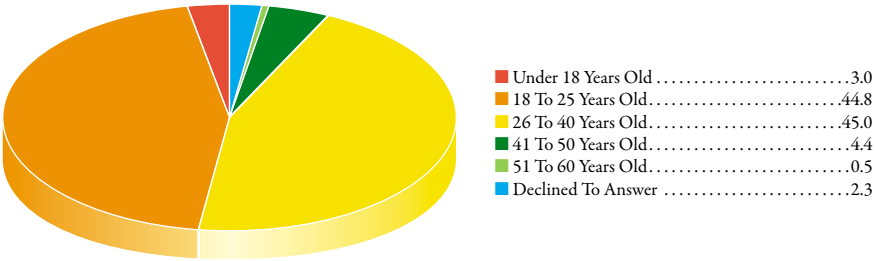
[27] The terms transgender and transsexual are properly understood to refer to people's gender identity rather than sexual orientation. For instance, a person who identifies as female-to-male transgender in terms of gender identity might identify as straight, gay or bisexual in terms of sexual orientation.

**FIGURE 2 Breakdown by sexual orientation, % (n=864)**



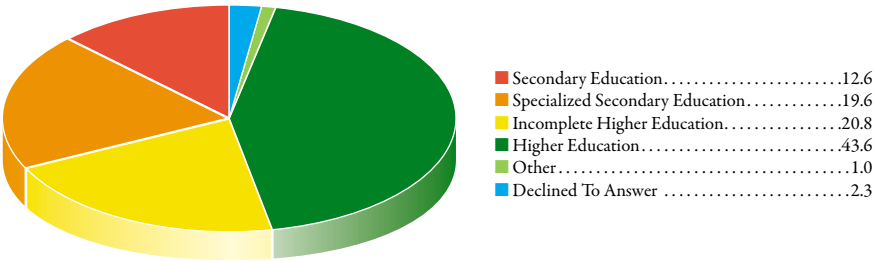

Most respondents were young or middle aged: about 45% of respondents were between the ages of 18 to 25 and another 45% were between the ages of 26 to 40. Only 3% of respondents were under 18 years of age and only 5% of respondents were over 40.

**FIGURE 3 Breakdown by age, % (n=864)**




The majority of respondents (43.6%) had completed a course of higher education, and 20.8% had some (incomplete) higher education; another 19.6% had specialized secondary education, and 12.6% had completed secondary education.

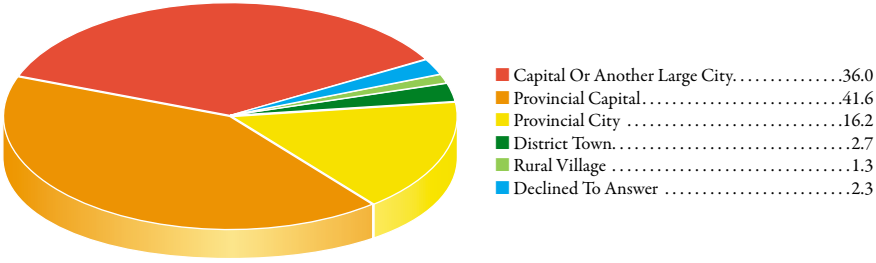
**FIGURE 4 Breakdown by education, % (n=864)**




Most respondents live in urban areas with sizeable populations. Some 35% of respondents were residents of the capital or large cities (i.e. cities of national significance),

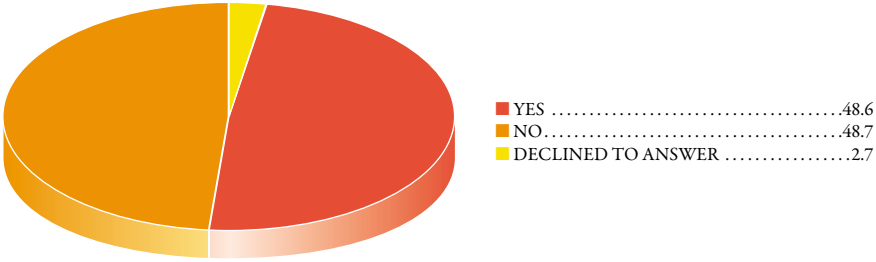
while 41.6% live in provincial capitals, 16.2% reside in other provincial cities, 2.7% live in towns in local districts, and 1.3% live in rural areas.[28]

**FIGURE 5 Breakdown by place of residence, % (n=864)**



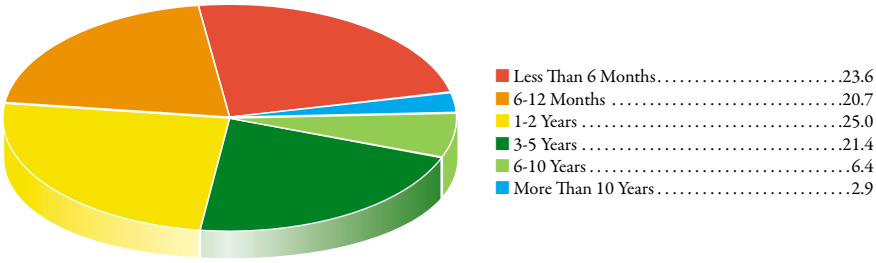

Researchers asked participants about their relationship status. Half of the respondents interviewed stated that they are in a stable same-sex relationship.

**FIGURE 6 Are you in a stable homosexual relationship? % (n=864)**




The majority (55.7%) of those in a same-sex relationship were in a relationship that had lasted for a year or more. Among those currently in a same-sex relationship, 23.6% indicated the relationship had continued for less than 6 months, 20.7% from 6 months to 1 year; 25% for 1 to 2 years; 21.4% from 3 to 5 years; 6.4% from 6 to10 years; and 2.9% for more than 10 years.

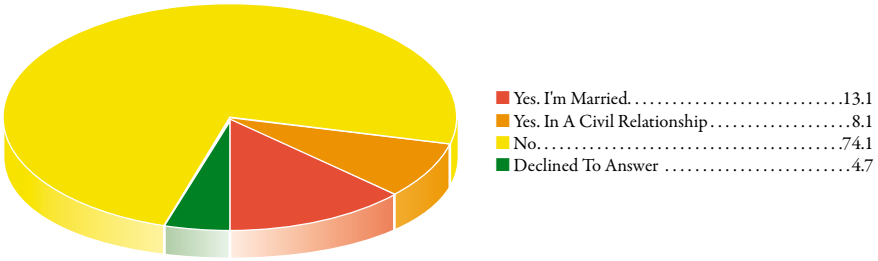
**FIGURE 7 Duration of respondent's current homosexual relationship, % (n=420)**




[28] The greater anonymity provided by large cities and relatively more tolerant attitude of city dwellers may mean that urban settings are more comfortable places to live for many LGBT people. In addition, the preponderance of city residents among LGBT people may in part be due to the better developed infrastructure in cities like Astana and Almaty, as well as the accessibility of clubs and other meeting places for LGBT people. However, the relatively small number of LGBT respondents from the rural population may also be a result of the difficulty in accessing this subsection of the target population.

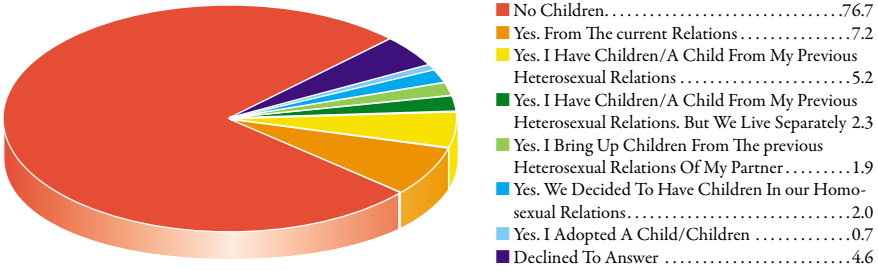
At the time researchers interviewed them for this report, a minority of respondents were involved in heterosexual relationships; including 13.1% who were married and another 8.1% who were living with a partner in a heterosexual relationship. The majority (74%) of respondents were not in a heterosexual relationship.

**FIGURE 8 Have you been married to or lived together with a heterosexual partner? % (n=864)**




The majority of respondents (76.7%) do not have children.

**FIGURE 9 Percentage of respondents who have children, % (n=864)**




## STATE POLICY AND PUBLIC OPINION

***This essay was contributed by journalist Ekaterina Belayeva.***

More than a decade ago, Kazakhstan abolished provisions envisaging criminal responsibility for sodomy. What has changed in the life of the LGBT community since then?

Kazakhstan views itself as a country with a high degree of tolerance. Indeed, one can see positive trends in the improvement of interethnic relations and promotion of religious tolerance, but tolerance towards the LGBT community is not included in this favorable atmosphere. Homophobia continues and the damage it is doing to society continues to be ignored.

Kazakh society is full of prejudices and myths about gays. For instance, many people believe that the number of HIV infected people grows proportionately with the

growth of the number of LGBT people. There is also fear of the spread of homosexual culture, which many people believe is the source of socially dangerous behavior. Such views are spread through society quite freely; whereas the dissemination of materials encouraging interethnic violence is subject to criminal prosecution, there is no law against homophobic propaganda.

Examination of the attitudes of people in the general population toward the LGBT community reveals that straight people are largely not tolerant of LGBT people and that the government has failed to take a clear position on the matter.

According to a survey conducted by the author of this section in 2008, out of 200 people, only 38 expressed no negative attitude toward LGBT people. The older generation (those between the ages of 40 and 60) object to same-sex relations because they do not have procreation as their purpose. More than 60% of the people surveyed from this age group believe the state should reinstitute criminalization of homosexuality. Most (more than 97%) of the respondents between the ages of 30 and 40 believe that homosexuals should be isolated from the rest of the society, and about 60% from this category (both men and women) say that they are prepared to use physical violence against LGBT people. Only 3% of these survey respondents agreed with the statement that gays have the same rights as all other citizens of Kazakhstan.

Views on the equality of LGBT people were split almost 50-50 among those in the 16 to 30 age group. About half say they have LGBT people among their friends and that neither gays nor lesbians pose a danger to society; while the other half of the people in this age group consider it honorable to use physical violence against LGBT people.

Answering the question "What danger do LGBT people inflict on society?" 30% of respondents say that homosexuality breaches the commandments of the Bible and the Koran. Ten percent fear that their children may be "dragged into the gay community," and 60% associate homosexuality with prisons, "dirt" and venereal diseases.

Perhaps most astonishing was respondents' response to the question "What is the government's position with respect to sexual minorities?" Ninety-seven percent of respondents are confident that Kazakhstan does not tolerate any form of homosexual orientation. When asked to give their reasons for this opinion, those surveyed answered that they had heard many politicians expressing a negative attitude towards LGBT people.

One should not forget that these attitudes are, in part, determined by Kazakhstan's history. It has not been long since Kazakhstan became independent from the Soviet Union. Since 1934, Article 121 of the Soviet Criminal Code punished sodomy. During

more than 50 years, the idea of homosexuality as a crime became deeply rooted in the minds of people in Kazakhstan.

Even though Kazakhstan's current legislation does not envisage a criminal penalty for same-sex relations and there are now about ten non-governmental organizations (NGOs) and advocacy groups in the country working with the LGBT community, the level of homophobia remains high in Kazakhstan.

At a recent conference held at Astana's National Press Club with the participation of the youth wing of the Adilet party, the participants addressed the public with their conservative manifesto. One of the statements in this document reads: "We believe that the state and the public should support the institution of family. Above all, this concerns all round support to maternity, boosting the birth rate, family values and limiting negative phenomena such as free sex, divorces, abortions and homosexuality."[29]

Perhaps the most telling evidence of discrimination against homosexual people in Kazakhstan was an event that occurred in May 2008, when one of the information agencies made an announcement of a planned gay parade in Almaty. The active part of the population did not remain indifferent to this piece of information: on Internet forums people were hotly debating whether it was possible to hold this parade in a country like Kazakhstan. The majority of forum members were openly hostile and aggressive towards the LGBT community.

Statements from various organizations began to appear in the media. The city administration distributed a press release claiming that it had received no applications to hold the parade, and that even if there had been any, "...the administration would most probably have rejected them as it could not have ensured the safety of the parade participants."

The Union of Muslims of Kazakhstan (UMK) categorically stated that gay parades could not be held in Kazakhstan, because it was a Muslim country. Murat Telibekov, the chair of the UMK, said: "We suggest adopting a law prohibiting the propaganda of sodomy by the media. We strongly object to their active propaganda of their sexual orientation in society. Unfortunately, we must admit that today the state does not have a clear standpoint on this problem, which creates a favorable ground for various speculations."[30] He also told journalists that the number of gays was growing in the country: he made this conclusion based on HIV statistics in the country, saying that, "this may serve as an indirect indication of an increase in the number of homosexuals."[31]

[29] http://dp-adilet.kz/ru/actions
[30] http://www.time.kz/index.php?newsid=5312
[31] http://www.time.kz/index.php?newsid=5312

The head of the UMK also criticized the former culture and information minister and present presidential adviser, Yermukhamet Yertysbayev, who once, when asked about his reaction to one of his subordinates being gay, said, "I do not interfere with the personal lives of my subordinates." "It is nonsense when gays work in government agencies," Mr. Telibekov said, "We think that people with non-traditional orientation should be banned from working in government agencies."[32] However, Mr. Telibekov did not explain how government bureaucracies would check civil servants' sexual orientation in the event his proposed prohibition were approved. The media's reaction to this statement depended on their affiliation and ownership. The pro-government press approved of Mr. Telibekov's statement, while independent media largely ignored it.

Here is what a lesbian named Diana had to say about the public's attitude toward the LGBT community in Kazakhstan:[33]

**EB – Let's begin with the parade. Do you need it?**

Diana – What for? In any civilized country a gay parade is a demonstration of the tolerance of society. It shows how far it has "advanced." In this respect Russia is by far ahead of us; although the parades there are accompanied by conflicts, these are caused not by actual condemnation by society, but rather from political opposition.

**EB – Do you think that if we hold a parade here, the guys with clubs will come?**

Diana – Absolutely. Perhaps there won't be that many, but they will come anyway. It is so great to come to a parade and impose your alleged superiority on others; it's a psychological issue. Earlier, in Soviet times, everyone had to be equal to everyone, and all who stood out were immediately punished by society. Now the time has changed, but the old habits still remain – and so does criminal ideology. However, I must admit that in the big cities of the country the situation is not that terrible, particularly with well-educated people.

**EB – Have you ever been discriminated against on the grounds of sexual orientation?**

Diana – Yes. Doctors (ostensibly educated people) do not want to treat us, they chisel us with documents all the time, to say nothing of the guys. They do have a hard time. Absolutely everywhere, there is a chance of "getting it in the neck." Even journalists write something from time to time that makes you understand: this country still has a long way to go to reach real tolerance. Well, it's obvious. Look at the dating websites. In the .kz zone of the Internet there are almost no resources for communication between gays and lesbians. At the same time, there are a great number of sex-for-money offers. It turns out that love for sale is held in greater respect among people than "unnatural" love.

[32] http://www.time.kz/index.php?newsid=5312

[33] Interview with the author, 2008.

**EB – What would you personally like to achieve with respect to your rights and freedoms in Kazakhstan?**

Diana – It may sound commonplace, but I want equal rights. Let us imagine a citizen of a country. He or she is not forbidden to be gay. That is, people are free to do everything they like in their private life. The more so as scientists have long proved that homosexuality is an innate phenomenon. But a person cannot marry "for love" in his country. Why? Is this not a violation of human rights? It is clear that a state that is not religiously motivated can justify its ban of homosexual marriage under the pretext of caring about increasing the birth rate, for example. But they cannot make a woman bear if she does not want to. Or make a gay man marry a woman, which, due to his physiology, is impossible for him. I beg your pardon, but about 10% of the divorces in the country result from this. As a matter of fact, all that is not forbidden is permitted, so to speak. So why can't they let us live the way we like?

**EB – I think it is a matter of time. They are afraid of you so far.**

Diana – And why should they be afraid of us? We do not touch anybody; we don't call on anybody to be like us. The statements about gays being the cause of the growing percentage of the HIV-infected are just silly. To refute this we should just see the statistics. Of all the HIV-infected only 5-8% are gays. The rest are drug addicts and those infected by doctors through blood transfusion. That is what Muslim communities should struggle against. The UMK did not make any statements when innocent children were infected in Shymkent.

Diana raises the still controversial issue of gay marriage. Same-sex marriages are very rarely discussed in Kazakhstan. In 2001, political figure Yerasyl Abylkasymov and Yuri Zaitsev, the executive director of the Feminist League public association, discussed this issue on Channel 31. Yerasyl Abylkasymov strongly criticized homosexual marriage. He said: "For Muslims it is an insult to even discuss this question. Homosexuality is a biological disorder caused by genetic disorders and environmental influences (including upbringing). Bad ecology (e.g. in the Semipalatinsk region) and marriages between relatives create favorable conditions for such disorders. The Kazakhs are not inclined to such disorders, as they do not marry relatives. But in Europe it is a usual thing to marry a cousin, and so homosexuality is flourishing there, reaching 5-8%." At the same time, Mr. Abylkasymov did not deny the existence of this phenomenon in Kazakhstan, and even in parliament.[34]

For very different reasons, LGBT people in Kazakhstan are not ready to discuss the possibility of gay marriage either. Gays believe that it is more important now to gain recognition and the inclusion of tolerance toward people with different sexual orientation in the state's notion of tolerance. A young man named Ruslan expressed this

[34] http:zonakz.net/articles/9882

view plainly, "Today, we could be satisfied if we could communicate openly, without risk to our lives. To know that in a conflict situation we, like all other citizens, will receive fair and law abiding support from law enforcement agencies, instead of mockery and open hatred. So, I think for a start we just need now to cultivate that very tolerance our government talks about so much. And later, when everybody sees there is nothing awful about LGBT, we can talk about marriage."[35]

***Conclusion***

Analyzing the status of LGBT people in Kazakhstan today one is forced to conclude that the rights of the LGBT community are being violated at every turn. To change this situation it is going to be necessary to dislodge the fear straight people feel about LGBT people and vice versa. Here non-governmental organizations may play an important part. The more openly this problem is discussed in the country, the more rapidly it will be solved. There is now no solid platform to discuss homophobia, its consequences and impact on the development of society in general. danger of keeping "mutual silence" is that it makes it easy to forget that there are real people behind such notions as "homophobia," "homosexuality" and "discrimination."

## c. Public Perception of LGBT People

Homophobia, transphobia and heterosexism[36] are pervasive in Kazakhstan.

Most respondents characterize Kazakhstan society's attitude toward them as negative. As many as 81.2% said that homosexuals face disapproval and disrespect from those in the general population; 74.5% expressed the opinion that transgender people are treated poorly by members of the general population.

Respondents told interviewers that homophobia is widespread in Kazakhstan society and that the general population "still has a long way to go to defend LGBT people." [37] The following are examples of respondents' descriptions of the situation facing LGBT people in Kazakhstan and the types of attitudes they encounter from fellow members of Kazakhstan society. One respondent observed that many people in the general population neither understand nor accept homosexuality.[38]Another said:

The majority don't approve of it. They all think it's a mental disease.[39]

[35] Interview with the author, 2008.

[36] Heterosexism is the belief that everyone is, or should be, heterosexual. A heterosexist viewpoint denies and rejects gay, lesbian, bisexual and transgender identities and renders LGBT people "invisible."

[37] Respondents #097 and #089, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[38] Respondent #051, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[39] Respondent #435, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One respondent described the effect that widespread homophobia has on the respondent's sense of safety and well being:

***I'm simply scared. Unconventional sexual orientation in our society is like a brand. That's why one has to conceal it.***[40]

**FIGURE 10 The public attitude towards LGBT people in Kazakhstan, % (n=864)**

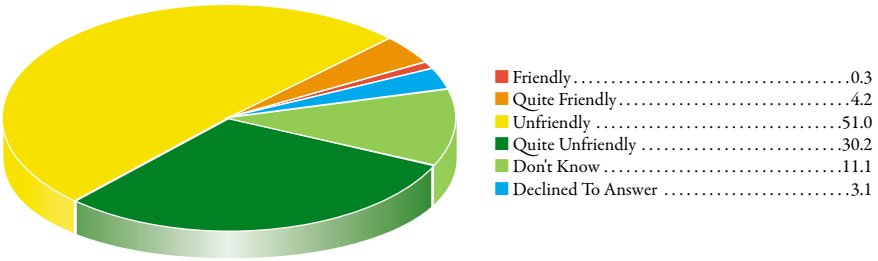
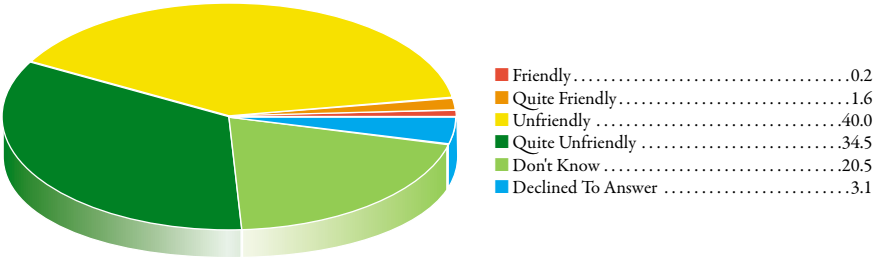



**FIGURE 11 The public attitude towards transgender people in Kazakhstan, % (n=864)**

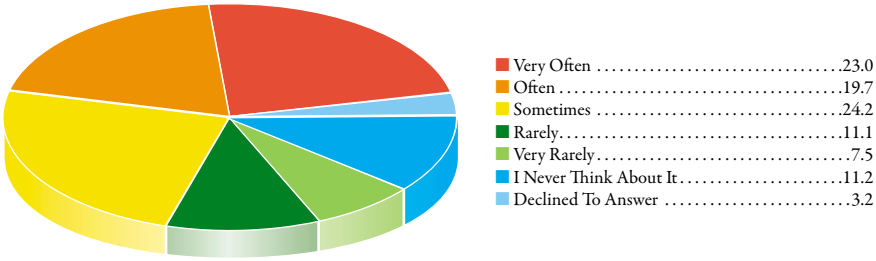



## d. Coming Out

Prejudice against LGBT people and generalized heterosexism, as well as overt discrimination and violence, put pressure on LGBT people and lead them to adopt a range of survival strategies to cope with the situation. Many feel they have to be constantly "on the alert" to conceal their orientation from people close to them and members of the general population in order to avoid encountering prejudice, discrimination and violence. Many respondents expressed a high degree of concern that others might learn about their sexual orientation or gender identity; 42.7% of respondents report that they think about this "very often" or "often;" one in four (24.2%) thinks about it sometimes; 18.6% say they worry about this "rarely" and "very rarely;" and only 11.2% say they never think about it.

[40] Respondent #263, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

**FIGURE 12 How often do you think that others may learn about your orientation? % (n=864)**




Researchers asked LGBT people about the degree to which they felt they could be open with family and friends about their sexual orientation or gender identity.

In answer to the question "How many of your heterosexual acquaintances know about your sexual orientation?" 28.9% of respondents said "none," 45.6% said "some," 7.8% said "half," and 9.2% said "most," while only 6.3% answered "all." These responses indicate that LGBT people in Kazakhstan find it necessary to conceal their sexual orientation or gender identity from many people with whom they are in regular contact. LGBT people's fear of coming out to straight acquaintances is informed by actual experiences of homophobic and transphobic attacks when their orientation or gender identity was known and is reinforced by the general silence and lack of openness in society about sexual orientation and gender identity.

Survey respondents were asked: "Does anyone in your family know about your sexual orientation?" In answering, 31.2% of respondents said that someone in their family knew about their sexual orientation; 47% said that none of their relatives knew; and 16.9% do not know whether or not their relatives know about their orientation or gender identity. The remainder of respondents declined to answer the question or gave other answers (for the most part they said that they believed relatives "suspected" the truth about their orientation).

In most cases (67.5%), a person's mother knows about his or her sexual orientation. Many siblings (45.1%) are also aware of a respondent's orientation. Fathers were less likely to be informed about their children's sexual orientation; only 28.9% of respondents said their fathers knew. Other relatives, including a heterosexual partner, are even less likely to be informed.

As shown in Table 1, the data revealed that about half the time mothers, siblings, and heterosexual spouses or partners were accepting of a person's sexual orientation; while fathers only approved in about one third of the cases.

Table 1. Percentage of family members who know about the respondent's orientation. (n=277)

| *Family members who know about the respondent's orientation* | *Percentage that know about the respondent's orientation* | *Percentage that approve of the respondent's orientation* |
|---|---|---|
| Mother | 67.5 | 36.8 |
| Father | 28.9 | 10.5 |
| Siblings | 45.1 | 27.8 |
| Grandparents | 14.1 | 5.8 |
| Aunt/uncle | 15.9 | 6.1 |
| Cousins | 18.4 | 10.5 |
| Spouse or heterosexual partner | 11.2 | 6.5 |
| Other | 4.7 | 9.7 |
| Declined to answer | 2.9 | 25.3 |

Many LGBT people report that they fear the consequences of coming out to relatives and see such a step as being potentially disastrous. One survey respondent said, "I won't come out even under torture."[41] Quite often, family members guess at, or have some hunch about, a relative's orientation or gender identity, but avoid discussing it.

Below the report presents some of the 186 stories respondents shared with researchers about their relatives' reactions when they revealed their sexual orientation and about the subsequent state of family relations.

A number of LGBT people said they were met with hostility and rejection when their orientation or gender identity was disclosed to relatives.

One respondent said:

***At the age of 24 I was silly enough to tell my mother everything. Since then, she has hated and persecuted me.***[42]

One woman told interviewers:

***As soon as my mother learned about us, she decided that she didn't need such a daughter. She even advised me that I commit suicide so as not to disgrace her in this world.***[43]

[41] Respondent #373, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[42] Respondent #196, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[43] Respondent #598, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Several respondents said the revelations led to family estrangement. One said:

***My parents learned about my orientation and took it aggressively. I was 15 then. Now I don't see my parents and don't associate with them. They rejected me.***[44]

Another told researchers:

***I came out to my mom; her reaction was tears, hysterics; they expelled me from my home. Currently, I don't associate with my family.***[45]

In some cases, family breaks can last for years, as one interviewee said:

***I was 22 when I came out. They wanted to kill me. From that point, for more than 10 years, we have never communicated. We haven't even tried to become closer.***[46]

While it appeared to be more common to expel an LGBT person from the family home, in some cases parents responded to revelations about a child's orientation by deserting the family.

One interviewee said:

***My father deserted his family when he incidentally came to know about my orientation. Now he is living with another woman and raising a child. He doesn't communicate with my mother and me.***[47]

Another told researchers:

***My father learned that I was gay and rejected me.***[48]

In some cases family members take overtly hostile action against LGBT relatives, even helping spouses and former spouses to deprive them of custodial rights to see their children.

One woman described the hostile attitude and actions of her family after they learned about her sexual orientation:

***When I was 34 my sister happened to learn about my relations with a woman and told all my relatives. After that, for four years, I have been living in hell. They helped my***

[44] Respondent #096, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[45] Respondent #140, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[46] Respondent #058, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[47] Respondent #606, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[48] Respondent #690, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

*former husband take away my children. Now they don't let me see them, as I have a "bad" influence on them.*[49]

Another also said relatives worked to deprive her of custodial rights:

*My relatives happened to learn [about my orientation]. They helped my husband take away the children and now I don't see them.*[50]

A number of respondents said that when they first came out to their parents and other relatives, there was a negative reaction, but that close family members had eventually adjusted to the situation and come to accept them.[51]

One woman told researchers:

*I came out to my mother at the age of 19. I refused to marry a guy whom everybody thought my bridegroom. My mama cried a lot and even fell ill. But gradually she learned to love me and take me as I am. However, she still hopes I'll change my mind and get married like my sister did.*[52]

One gay man recalled:

*I was 17 and my father came to know that I went to a gay club. He had a talk with me and I confessed I liked boys. He was rather shocked at first, but then he understood. He told the family about it himself.*[53]

Another said:

*I told my parents I was gay. First came shock, then they said they had long suspected. My father didn't talk to me for a week, but then said, it is your life and you can do anything you want, but despite everything you are our son.*[54]

Respondents also shared stories of easy and open relations with relatives and of meeting with acceptance and approval when family members and friends learned of their sexual orientation or gender identity.

One gay man described his process of coming out this way:

[49] Respondent #068, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[50] Respondent #072, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[51] Respondents #035 and #137, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[52] Respondent #599, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[53] Respondent #247, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[54] Respondent #439, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

*I simply said I was gay. My parents and relatives understand, which makes my life a lot easier.*[55]

Another respondent had a similar experience:
*My family knew this when I was 26. But everyone reacted well, they treat me as before.*[56]

In some cases, parents and friends expressed support for LGBT people.

One respondent said:
*My mom said: "It doesn't matter with whom you sleep, the main thing is to remain a human being!" And she gets along even with my friends and partners.*[57]

Other respondents said relatives had mixed feelings, but were generally accepting.

One interviewee said:
*It was difficult for my relatives to hear it. They made attempts to bring me together with the opposite sex. The present situation: they have accepted! There has never been any aggression.*[58]

Another told researchers:
*After a series of questions and suppositions, I came out to my parents. The reaction was surprisingly calm, but they still demand grandchildren.*[59]

## e. Discrimination

Different or less favorable treatment of LGBT people because of their sexual orientation or gender identity constitutes discrimination. Research for this report revealed that LGBT people are often subject to discrimination in the workplace, at school and university, when they seek housing and healthcare, and in their contacts with members of the clergy.

[55] Respondent #179, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[56] Respondent #170, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[57] Respondent #437, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[58] Respondent #497, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[59] Respondent #751, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

## Discrimination in the Workplace

Different and worse treatment of LGBT people in the workplace amounts to employment discrimination. Specific categories of acts properly qualified as employment discrimination include firing, refusing to hire, or denying promotion to someone because of his or her real or perceived sexual orientation or gender identity, or subjecting a person to harassment in the workplace.

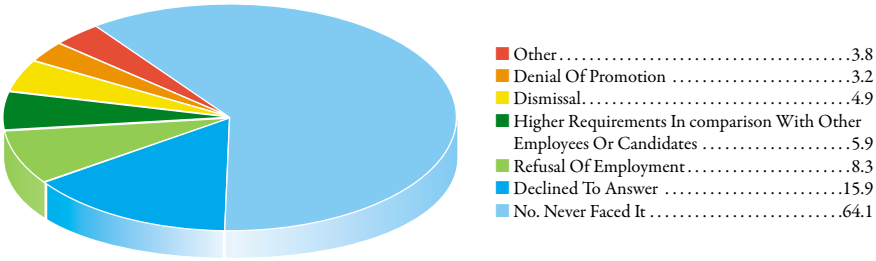
When research for this report was conducted, 72.3% of those surveyed were employed in full-time positions, 21.3% were not employed, and 6.4% declined to answer the question.[60] Most respondents (64.1%) reported that they had never faced any open discrimination at work. Only 8.3% of respondents said they had been denied employment because of their gender identity or sexual orientation. Almost 6 % of respondents said employers imposed higher requirements on LGBT employees or job applicants. Almost 5 % of respondents were fired because of their gender identity or sexual orientation, and another 3.2% were denied promotion. Other forms of workplace discrimination were experienced by 3.8% of respondents. In all of these cases, respondents perceived that actual knowledge or suspicion of the employee's sexual orientation or gender identity was a crucial factor in determining the attitude and action adopted by an employer.

It is important to note that the relatively low rates of explicit discrimination in the workplace reported by respondents are likely largely due to LGBT people's own practice of concealing their orientation or gender identity. Under current conditions in Kazakhstan, were LGBT people to come out to employers more often, it could be expected that there would be more frequent incidents of employment discrimination, including wrongful firings and failure to promote people in accordance with their job performance and merit. It is the knowledge of these serious risks and fear of lasting negative consequences that cause many LGBT people to continue to choose not to reveal their sexual orientation or gender identity.

More than half of respondents (53.1%) said that they need to conceal their sexual orientation or gender identity at all times in the workplace. One in four (27.2%) conceals his or her orientation from all but a few select people and generally avoids discussing the topic, and only 8.9% of respondents said that they could discuss their private life as freely as their heterosexual colleagues. The requirement to conceal one's identity in order to avoid losing a job or to remain in good standing at work puts an unfair and unequal burden on LGBT people and constitutes a form of invisible discrimination. Such survival strategies help to protect LGBT people from predictable discrimination and homophobic and transphobic attacks, but also serve to pre-empt and therefore conceal the true extent of prejudice and inclination toward discrimination in the workplace.

[60] (n=864).

**FIGURE 13 Discrimination at workplace related to sexual orientation, % (n=864).** The percentages do not sum up to 100, since the respondents could choose more than one answer




Those who faced discrimination on the grounds of their sexual orientation or gender identity described some of their experiences.[61]

Several respondents reported being wrongfully fired or forced to resign from their jobs after their sexual orientation or gender identity was revealed.

One interviewee reported:

***When they learned about my orientation at work, they mocked me in private. Finally, the rumors reached my boss and I was dismissed.***[62]

Another said:

***I had to resign when, at a policeman's initiative, everyone at work learned about my sexual orientation. It was impossible to work with these people any longer; they began to avoid and even fear me.***[63]

One respondent told researchers:

***Working as a taxi driver, I always had to hear colleagues ridiculing me, which finally led to my resignation.***[64]

Some respondents reported that they were fired by their bosses after relatives revealed their sexual orientation to those at work.[65]

Employers and co-workers can make life at work miserable for their LGBT colleagues. Homophobic and transphobic actions by bosses and co-workers against LGBT people

[61] Additional details regarding physical and psychological abuse of LGBT people in the workplace are detailed below in the relevant sections on Violence and Hate Motivated Incidents and Psychological Abuse.

[62] Respondent #097, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[63] Respondent #575, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[64] Respondent #247, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[65] Respondents #068 and #072, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008. For details, see below: Psychological Abuse.

serve to create a hostile work environment and amount to discrimination. Respondents reported workplace discrimination that took the form of verbal abuse, psychological pressure, and social exclusion.

One respondent said co-workers verbally abused and humiliated him when they discovered he was gay.[66]

Another reported:

***My colleagues said that I had to resign because they didn't want to work with a faggot.***[67]

One respondent experienced "jokes aimed at me" and "condescension" from co-workers.[68]

Another interviewee reported experiencing "strained relationships at work" and said:

***I am never invited to corporate parties. They try to speak to me as little as possible. In the office my mug stands apart from others' as if I am infected with something.***[69]

Another respondent said co-workers found fault with his job performance because he is gay:

***They spread rumors about my professional incompetence on the grounds of my homosexuality. Mockery, slurs like "bufty-boy" and insinuations about my private life were bandied about.***[70]

It is clear from the findings that there would be higher rates of incidents amounting to discrimination in the workplace if a larger number of LGBT people chose to come out at work and did not practice defensive strategies to conceal their sexual orientation or gender identity. The threat of discrimination, including wrongful dismissal, means that LGBT people are forced to take on the added burden of concealment and isolation in order to avoid the negative consequences they fear would result from revealing their identity or orientation. This fear and focus on concealment can have its own negative consequences, affecting LGBT people's relationships with others in the workplace and sometimes taking a serious psychological toll.

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[66] Respondent #282, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[67] Respondent #178, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[68] Respondent #212, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[69] Respondent #197, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[70] Respondent #522, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Despite the pervasiveness of workplace discrimination and general tendency of LGBT people in Kazakhstan society toward concealment, there were some LGBT people who reported being out at work.

Some LGBT people explained that they do not attempt to conceal their orientation or gender identity at work, because they think it is obvious to people in any case.[71] Sometimes at least a select group of co-workers will show tolerance toward openly LGBT colleagues.

One respondent reported:
***When new people come, they laugh at me at first but once they've known me for a while, their attitude becomes kind of normal.***[72]

Another said:
***I can easily hint at my bisexuality during small talk. In our company people by and large don't really care, although I have more than 300 colleagues (there are 300 employees in the company). I think if I came out completely, only men would ridicule me (plumbers, electricians, drivers) because of their lack of education. I have bisexual friends at work, with whom I communicate openly.***[73]

Others reported being selective about coming out to co-workers.[74]

The vast majority of LGBT people interviewed reported that they choose not to come out at work. People's reasons for keeping their sexual orientation or gender identity secret varied. Some respondents expressed fear of the danger or other negative consequences of coming out to co-workers, while others cited a general reticence to share personal information with people at work.

The following are some examples from 405 reports by LGBT people regarding their choice not to come out at work.

Some respondents viewed their sexual orientation or gender identity as a private matter that was not appropriate to raise with colleagues.[75]

[71] Respondents #593 and #609, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[72] Respondent #255, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[73] Respondent #859, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[74] Respondent #734, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[75] Respondent #709, respondent #195, and respondent #180, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Fear was the principal motive that most people pointed to as the reason for keeping their gender identity or sexual orientation secret from others. People expressed fears that co-workers would subject them to humiliation and persecution, or that superiors would deny them promotion or fire them.

In some cases, LGBT people had concrete negative experiences that informed and supported their fears of coming out.

One interviewee recalled:
***After all this humiliation at school I am not going to repeat the same mistake.***[76]

Another said:
***I've learned from bitter experience.***[77]

Another recalled being treated badly after coming out:
***People are bewildered right away. They start treating you either as insane or as a pervert – in any case the reaction is not normal, whatever it is.*** [78]

Many respondents said they feared that they would be insulted or excluded by co-workers if they came out at work.

One respondent expressed a fear of "persecution, mockery and insult, alienation from the team,"[79] while another said:
***I don't want people to ridicule and humiliate me.***[80]

One interviewee speculated:
***They wouldn't probably fire me, but some would definitely stop greeting me and others could even demonstrate their contempt quite openly.***[81]

Other respondents were concerned that people would lose respect for them if they knew the truth about their sexual orientation.[82]

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[76] Respondent #141, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[77] Respondent #577, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[78] Respondent #142, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[79] Respondent #003, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[80] Respondent #090, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[81] Respondent #211, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[82] Respondent #170, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One woman told researchers:

***We still have a lot of prejudice against gay people. As for lesbians, some people think that they sexually harass everyone and that it is very dangerous to work with such a woman, especially to be subordinate to her.***[83]

Some respondents were particularly afraid that revelations to co-workers would then spread to other members of the community or relatives with whom they were not ready to share this information.

One respondent said:

***I don't come out and I don't talk [about it] only because my parents may learn about it from "sympathetic" colleagues. My parents don't know and it's better this way.***[84]

Another said:

***It would mean being discredited in front of the whole town. I'll lose my family and friends and my relatives will never forgive me for such a shame.***[85]

Some LGBT people feared that co-workers would react with violence if they came out to them.

One respondent who made the decision not to come out explained:

***Because I don't want to be punched in the face – the best-case scenario.***[86]

Another said plainly:

***I fear psychological and physical assault.***[87]

Some respondents said they were afraid that their employers would fire them if they came out or that revelations about their sexual orientation or gender identity would negatively affect their career.[88]

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[83] Respondent #190, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[84] Respondent #859, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[85] Respondent #456, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[86] Respondent #706, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[87] Respondent #703, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[88] Respondents #026 and #705, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One respondent who feared being fired said:

***I cannot find similarly minded people and am afraid of losing my job, which is difficult to find in our region.***[89]

One gay man said:

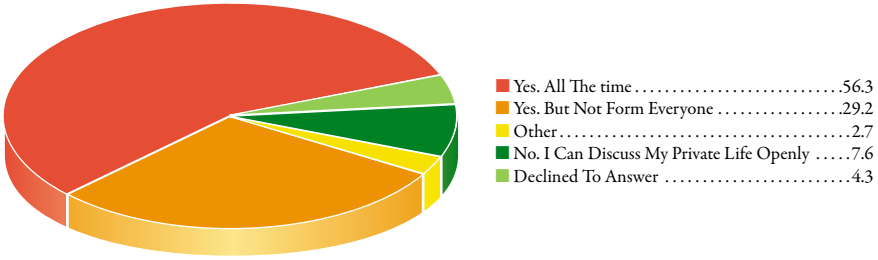
***Kazakhstan has a long way to go to accept gays. I will be fired the very moment I admit that I'm gay. Am I such a fool to lose my job?***[90]

## Discrimination at Schools and Universities

Researchers for this report asked LGBT people about their experiences at school and university. All survey respondents, including current and former students, were specifically asked: "Have you ever felt it necessary to conceal your sexual orientation or to avoid discussing it when at school or university?"

**FIGURE 14 Is it necessary for you to conceal your sexual orientation at schools and universities?**

**% (n=864)**




More than half of the respondents reported that they had to conceal or currently are concealing their sexual orientation while studying at school or university. About 30% said they concealed the information, but not from everyone, while only 7.6% reported being able to openly discuss their private life with fellow students.

LGBT respondents reported that fellow students, teachers and other people physically and psychologically abused them at school or university because of their sexual orientation or gender identity.[91] Different and worse treatment of LGBT students amounted to serious cases of discrimination in education.

[89] Respondent #028, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[90] Respondent #509, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[91] Details regarding physical and psychological abuse of LGBT people by teachers and classmates at school or university are detailed below in the relevant sections on Violence and Hate Motivated Incidents and Psychological Abuse.

One respondent reported:

***My teacher once said to me in front of the whole class that my kind and I should be sent to taiga on the spot.***[92]

Another recalled:

***They laughed at me at school, they called me names, they didn't talk to me.***[93]

In some cases, students faced serious threats of violence because of their sexual orientation or gender identity:

***Policemen and the parents of my schoolmates kept on saying that I should not only be raped, but killed.***[94]

One respondent remembered facing taunts and social exclusion:

***When I was at school, they all pointed their fingers at me, saying that I was leading a wrong life and that I should be rejected by society.***[95]

University students were among those responsible for homophobic and transphobic acts and speech.

## LESSONS ON HATE

***This essay was contributed by journalist Ekaterina Belayeva.***

Intolerance toward LGBT students and students with gay parents causes intense suffering and forces those in the LGBT community and their children to conceal personal information about themselves and largely isolate themselves from straight society. As the following story illustrates, intolerance toward the LGBT community can be found as early in a child's education as nursery school.

The mother of a four-year-old girl she is raising with her girlfriend said:

***"When my daughter became older she started asking questions about everyone having fathers while she did not. I explained that a family is not always made up of a father and a mother and that some children had two fathers, while others had only one parent. She seemed to understand me then. Later, when she went to nursery school***

[92] Respondent #623, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[93] Respondent #559, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[94] Respondent #583, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[95] Respondent #029, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

*I noticed that she had become very bad-tempered, reserved and had no desire to go to school. My girlfriend is a psychologist and she managed to make her talk and found out horrible details from her. It turned out that during one of the classes the children were asked to tell their teacher about their mothers and fathers, their occupations and weekend pastimes and so on. When it was my daughter's turn she openly said that she had two mothers. The teacher, who boasted about her university degree and training abroad, laughed at my daughter, saying: 'Is your mother a lesbian? She is a pervert!' Later this 'pedagogue' told all the children that it was dangerous to play with my daughter because they could catch some disease from her or 'become gay.' After that, for a whole month, my daughter put up with humiliation from the children and teachers. The most interesting point is that when I went to pick her up no one said anything and it all seemed fine. To tell the truth, when I learned about it, I was furious. Generally, this story ended with the situation that we changed nursery schools and my daughter's family is her little secret. We have friends with children who are tolerant towards homosexuality, and we make friends only with them."**

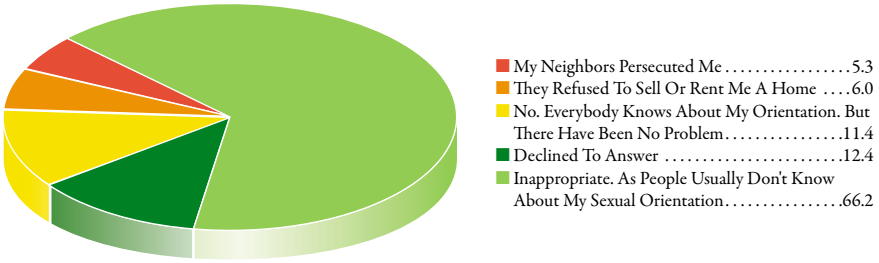
In addition to telling a poignant story of intolerance and humiliation of a little girl by the authority figures in her school, this anecdote also illustrates how a teacher's intolerance can poison a school environment and teach children to hate and fear LGBT people.

*Interview provided in 2008 on the condition of anonymity.

## Housing Discrimination

LGBT people can face prejudice and discrimination when they seek to rent or purchase a house or apartment and in their relations with landlords and neighbors.

**FIGURE 15 Do you have problems with neighbours and when purchasing/renting a flat/house? % (n=864)**




The majority of respondents (66.2%) said that they did not face housing discrimination because neighbors and landlords did not know about their gender identity or sexual

orientation. Research for this report found that only 6% of respondents had been refused the right to rent or buy an apartment or house because of their sexual orientation.[96] Another 5.3% of respondents reported persecution by neighbors. Encouragingly, 11.4% noted that their sexual orientation was not a secret, but that this did not cause them any trouble with respect to housing.

Most respondents (64.8%) concealed their sexual orientation or gender identity from neighbors and landlords because they feared a negative reaction; 21.4% did not think it necessary to conceal their gender identity or orientation; and another 13.8% declined to answer the question.

It is notable that housing discrimination and infringements on a person's freedom of movement and choice of residence can be affected not only by his or her immediate neighbors or landlord, but also by other members of the community. A number of respondents reported homophobic attacks by local gangs who "control" a given residential district. In some cases, assault, harassment and intimidation by gang members drove LGBT people from their communities and forced them to relocate.

The following account typifies the kind of harassment and persecution experienced by LGBT people at the hands of gangs and neighborhood thugs:

***Guys from my block watched how I saw my girlfriend off and kissed her goodbye. When I went back home they caught me and beat me badly. I spent a month in the hospital. They made threats and wanted to rape me, but a patrol passing by interfered. I don't like to remember it. After that incident, Natasha and I left Aktau and now we don't want anybody to know about our relationship. We are just two sisters as far as other people know. We are friends with a gay couple, and people think we are two heterosexual couples.***[97]

This woman's story also illustrates the lengths to which LGBT people must sometimes go to prevent being targeted for attack by people in their communities.

## Discrimination in Health Care Settings

Research for this report attempted to measure the extent of discrimination against LGBT people by health care providers. Researchers asked LGBT people if they had experienced discrimination when they visited health care facilities. Researchers

[96] It should be noted that this indicator cannot be interpreted correctly without knowing what proportion of respondents was buying or renting residential real estate during a given time period. If this proportion is only 10 percent, then the discrimination indicator is high; if it is 70 percent, then the indicator is insignificant.

[97] Respondent #627, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

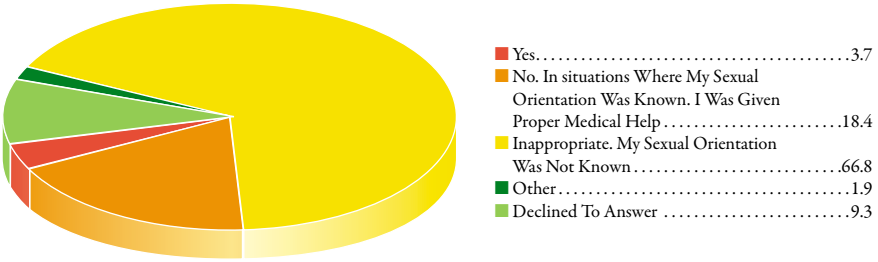
asked whether they had been in situations where health care providers, after learning about their orientation, treated them differently or less favorably than before or than heterosexual patients. Researchers asked also whether health care workers had additional tests or used additional hygienic protection when treating LGBT people, or had refused LGBT people access to medical services, rejected LGBT patients as blood donors, were patronizing towards them, or admonished them about their lifestyle.

In most cases (66.8%), one cannot assess the influence of patients' sexual orientation or gender identity on health care providers' attitudes or actions because medical personnel were not aware of their patients' sexual orientation or gender identity. Only 3.7% of the respondents reported incidents of discrimination by health care providers, while 18.4% said that medical personnel gave them proper medical help even when they knew about their orientation.

Despite the relatively small number of respondents who reported discrimination in health care settings, the accounts given by those who did suffer such treatment by doctors and other medical personnel provide evidence of serious human rights violations and breaches of professional ethics by doctors when working with LGBT people.

The following examples are taken from 26 reports that describe such violations, from condemnation of LGBT people's way of life and pessimistic forecasts about their health, to the extortion of money and outright denial of medical care.

**FIGURE 16 Have you been treated differently or less favorably by doctors? % (n=864)**




Some LGBT people said that medical personnel were verbally abusive and contemptuous of them when they sought medical help.

One woman reported:

***In a gynecologist's office the doctor asked me scornfully: "Lesbian?" Her entire look told me I was a nonentity. I rushed out of the room.***[98]

[98] Respondent #153, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Another respondent reported experiencing "verbal ridiculing and offensive treatment from health care officials."[99]

One interviewee said:
***I was ill-treated during a blood test.***[100]

One woman reported that her doctor suggested certain diseases were God's punishment against gay people and that she would likely die earlier because she is a lesbian:

The gynecologist I visited could probably guess my orientation, as she began to tell me how good sex with men is and how wrong it is to avoid them. Then she also said that [early] mortality is higher among lesbians than among heterosexual women, and that God does exist; probably that is why He visits people like me with various specific diseases.[101]

Another respondent said:
***The pediatrician I brought my daughter to told me that it would be better for my daughter if I repudiated her.***[102]

In one of the most disturbing accounts to come out of the research, one transsexual respondent reported being forcibly committed to a mental hospital because of the respondent's gender identity and being ill-treated by medical personnel there:
***They didn't let me out of a mental home, the doctors there abused me, and the attendants beat me and called me faggot; but I'm not gay, I'm a transsexual.***[103]

Wrongful hospitalization of LGBT people for "deviant" gender identity constitutes a serious abuse of the right to liberty and misuse of the health care system and recalls some of the worst abuses of the Soviet era, when dissidents were confined in mental institutions for having ideas inconsistent with those of the ruling regime.

One respondent said of a medical professional:
***He refused to help me and demanded sexual intercourse.***[104]

[99] Respondent #488, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[100] Respondent #515, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[101] Respondent #202, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[102] Respondent #194, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[103] Respondent #201, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[104] Respondent #714, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

The denial of medical treatment because of a person's sexual orientation or gender identity constitutes a serious form of discrimination against LGBT people that can have profound negative effects on their lives and health.

One woman recalled being thrown out of a doctor's office because she is a lesbian:
***My mother brought me to a gynecologist and explained to her that I needed to be examined as I had only "unnatural" sex, but the doctor expelled us both from the office, saying that she dealt only with normal people.***[105]

A gay man reported:
***Having learned that I was a gay, a proctologist refused to see me.***[106]

Another respondent reported being denied treatment at a regional clinic.[107]
One interviewee told researchers:
***We always visit doctors together, and once a doctor asked us: "I hope you are not lesbians? If so, I wouldn't like to have such people among my patients. I have been taught to treat normal people."***[108]

In some cases, doctors refuse to provide LGBT people with urgent care:
***When once a neighbor beat me, a doctor refused to treat me, saying that he didn't wish to soil his hands with me.***[109]

Even those in the psychiatric and psychoanalytic profession were reported to discriminate against LGBT patients.

One respondent recalled:
***I went to see a psychologist to understand myself better, and he said that he was not going to deal with faggots.***[110]

While it can sometimes be difficult to assess the motive behind delays in medical treatment, in other cases doctors clearly discriminate against LGBT people and place their health and well being as the lowest priority.

[105] Respondent #066, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[106] Respondent #083, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[107] Respondent #707, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[108] Respondent #598, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[109] Respondent #178, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[110] Respondent #197, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One gay man told researchers:

***When some men had broken my arm, police officers brought me to the hospital and I waited there for a cast for a very long time. When it was my turn, the doctor said: "The gay will be the last to be seen." Everybody turned their heads and looked at me, and I felt as if I were a monkey in a zoo.***[111]

One respondent who had sought information about family planning said:

***They just started asking questions and refused to give me information on in vitro fertilization.***[112]

In some cases, medical staff provide LGBT people with only cursory and inadequate treatment.

One respondent said:

***They examined me superficially, put on gloves, as if I were infectious, and told me everything was OK. I said, "What about X-ray photography or ultrasonic scanning?" [They responded] "No, you are quite alright." So they never examined me carefully.***[113]

In other cases, health care providers exhibit wariness and are excessively fastidious when providing care to LGBT patients.

One woman reported:

***A gynecologist treated me fastidiously.***[114]

Another respondent said of health care workers:

***They were biased, and sometimes even fastidious, so [now] I visit private practitioners.***[115]

One respondent reported:

***When I went to see a doctor, I told him about my orientation. The doctor thought I would hardly go to another clinic, and asked me to pay double the price for his service.***[116]

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[111] Respondent #150, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[112] Respondent #597, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[113] Respondent #396, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[114] Respondent #101, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[115] Respondent #439, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[116] Respondent #386, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

There are cases when doctors know about a patient's sexual orientation and exhibit tolerance and friendliness.

One respondent said:
*The woman-doctor, who knew about it, treated me with all her sympathy. Thank her!*[117]

Another reported:
*She asked: "Are you gay?" and simply laughed kind-heartedly.*[118]

Another said that medical professionals were far from hostile when they learned of the respondent's orientation:
*On the contrary, even more friendly.*[119]

In anticipation of a demonstration of homophobia by doctors, many LGBT people prefer to visit private doctors, who usually take a neutral position regarding patients' sexual orientation or gender identity.

As one respondent put it:
*When you pay, they don't care whom they are helping.*[120]

## DISCRIMINATION IN THE HEALTH CARE FIELD AGAINST MEN WHO HAVE SEX WITH MEN (MSM)[121]

The following essay was contributed by Maksut Kamaliev, professor at the National Medical Institute.

In conformity with international legal standards, the Constitution of the Republic of Kazakhstan (1995) ensures the right to health care for all citizens (Article 29). Legislation on implementation of this guarantee includes the Law On the Health Care System (4 June 2003). Through such legislation, the government of Kazakhstan confirms the inalienable right of a person to protection of his or her health and specifically guarantees citizens the equal opportunity to receive medical help, to be treated with a

[117] Respondent #746, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[118] Respondent #847, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[119] Respondent #739, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[120] Respondent #406, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[121] The public health term MSM (men who have sex with men) is used here to describe men who have sex with others of the same sex, whether occasionally, regularly, or as an expression of gay identity. The term is meant to be descriptive without attaching an identity or meaning to the behavior, so that health interventions, especially HIV/AIDS education and services, can be directed to persons on the basis of need.

humane attitude by medical workers, and to be given information about the state of his or her health. Moreover, the legislation of Kazakhstan prohibits any discrimination in the protection of a person's health, and provides for proper treatment and respect for the patient as an individual.

Today, people's attitudes towards homosexuality vary from approval to severe condemnation and hostility. Social condemnation of men who have sex with men (MSM) can lead to difficulties in receiving crucial services, including medical care.

To investigate the problems that men having sex with men encounter when they seek medical help, colleagues and I carried out sociological research with 325 MSM participants. This research was conducted in Almaty, Kazakhstan in 2004. In composing the questionnaire, we took into account recommendations from the World Health Organization (WHO)[122] and Family Health International,[123] concerning behavioral surveillance of HIV risk.

The authors of the research purposefully avoided asking the question "Is there discrimination in field of health care on the grounds of sexual orientation?" However, one can see that MSM express significant levels of concern about discrimination by health care providers when we examine their answers to questions related to seeking care for STIs (sexually transmitted infections) and HIV testing.

After the symptoms of an STI appeared, 66.7% of respondents went to a doctor they were acquainted with, 41.7% went to a private clinic, and 22.2% went to a dermatovenerologic dispensary. It should be noted that in such cases MSM very seldom visited a local polyclinic (2.8%).[124] (See Table1).

Table 1. Respondents' behavior when they thought they had an STI

- Went to a pharmacy – 1.4%
- Went to a polyclinic – 2.8%
- Self-treatment – 2.8%
- Went to a dermatovenerologic dispensary – 22.2%
- Went to a private clinic – 41.7%
- Visited a doctor with whom they were acquainted – 66.7%

The study asked respondents about their reasons for choosing not to go to a dermatovenerologic dispensary. Nearly half of the respondents (48.3%) said the main

[122] Guidelines for Conducting HIV Behavioral Surveillance. WHO, 2001.

[123] HIV Risk Behavioural Surveillance Surveys (BSS): Methodology and Issues in Monitoring HIV Risk Behaviours. Workshop Summary. Bangkok: Family Health International, 1997.

[124] The percentages do not add up to 100 because respondents were able to choose more than one answer.

reason people with STIs do not visit a dermatovenerologic dispensary is because they have doubts about the doctor's competence. Among other reasons, which are no less important, are the respondents' fears that doctors do not always comply with ethical norms. Some respondents were afraid that doctors would condemn them (27.6%), while others were worried that medical staff would violate the principle of confidentiality and reveal their diagnosis without permission (22.5%). For 15.5% of the respondents, the high cost of treatment was a factor (See Table 2).

Table 2. The reasons why respondents did not go to a dermatovenerologic dispensary when they thought they had an STI

- Distrust of the doctor's competence – 48.3%
- Fear of condemnation by medical staff – 27.6%
- Fear of disclosure of the diagnosis – 22.4%
- High service costs – 15.5%
- The name of the establishment – 13.8%
- Fear of being registered – 12.1%
- Requirement to visit the doctor repeatedly – 5.2%
- Inconvenient location – 5.2%

The study revealed that more than half of the respondents (54.1%) had not taken an HIV test. The other half were forced to take it, either when medical workers required it (26.6%) or when entering a workplace (25.9%), or when they received a course of treatment (21.6%). (See Table 3).

Table 3. Reasons why respondents have taken an HIV test

- In pre-trial detention, a penal colony or in a detoxification centre – 0.7%
- Were obliged to do it as foreign citizens – 5.8%
- Of one's own free will – 19.4%
- When receiving a course of treatment – 21.6%
- When entering a workplace – 25.9%
- When medical professionals required it – 26.6%

The following were cited by respondents as the main reasons for avoiding being tested for HIV: disinclination to know one's HIV status (87.2%); fear that one's status will be made public if tested (13%); fear of being registered (9%); and distrust of medical staff and the testing procedure (9%).

Table 4. Why have you not taken an HIV test?

- I have had no time – 1%
- I don't know where I can do it – 2%
- I distrust medical staff and the testing procedure – 9%
- I'm afraid of being registered – 9%
- I'm afraid that my diagnosis will be made known to the public – 13%
- I don't want to know my status – 87%

From our research we were able to draw the following conclusions about MSM in Almaty and problems connected with their access to medical services.

Conclusions:

MSM are vulnerable to health risks due to the following factors:

- Low medical activity;
- Psychological barriers in receiving medical service;
- Fear of condemnation by medical staff;
- Distrust of doctors' moral and ethical principles;
- Fear of public disclosure of health facts.

Recommendations:

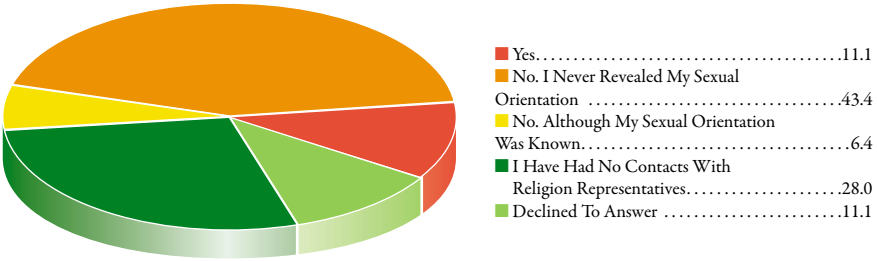
- Take steps to change the public perception of MSM as people with a mental illness or deserving of punishment.
- Carry out explanatory work about the health needs and concerns of MSM among medical workers and provide them with up-to-date information.
- Develop specialized educational programs for MSM that are focused on increasing their self-esteem and ability to take responsibility for their health and the health of others.
- Provide MSM with information about patients' rights and the duties of doctors.
- Increase MSM's trust in medical workers.
- Increase the responsiveness of the health care system to the health needs of MSM.
- Carry out further research to identify today's medical and social problems related to MSM.
- Cooperate with international organizations and learn from the experiences of other countries.

## Discrimination in Religious Institutions

Respondents expressed wariness about coming out to representatives of organized religion. As many as 43.4% of respondents said they did not reveal their sexual orientation and therefore had not experienced different or less favorable treatment by clergy; 11.1% of respondents said that members of the clergy treated them differently or less favorably because of their sexual orientation or gender identity; and only 6.4% said that clergy who knew of their sexual orientation or gender identity continued to treat them like everyone else. Another 28% of respondents said they had no contact with representatives of organized religion; and the remainder of respondents declined to answer the question.

Researchers received 21 reports in which respondents described their interaction with members of the clergy and the ways in which representatives of religious institutions treated them. For the most part, clergy condemned LGBT people and focused on "reforming" the supposed "sinner" or even attempted to "exorcise the devil" from LGBT people or "cure" them with prayers and repentance. In other cases, religious leaders treated LGBT people with outright hostility and refused to allow them to participate in religious practice, such as giving confession.

**FIGURE 17 Have you experienced a different/less favorable treatment by religion representatives?**
**% (n=864)**




A number of people reported facing discrimination at church.

Several respondents recalled encountering anti-gay sentiment in the Orthodox Church[125] and one said that clergy there refused to receive the respondent's confession.[126]

One interviewee said:
***A priest told me it was filth.***[127]

[125] Respondents #707 and #720, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[126] Respondent #488, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[127] Respondent #723, name withheld. Testimony provided to researchers in Kazakhstan during the period October to

Another respondent who identified as Christian said religious community members "treated me with pity, distrust and open aggression."[128]

Another recalled:
*In a Jehovah's Witnesses Church, where I began to visit, they treated me very badly.*[129]

In some cases, clergy and members of religious communities took action to "cure" LGBT people of their sexual orientation or gender identity.

One respondent recalled:
*I was in a community where it was considered a deadly sin, where they tried to cure people of it with the use of prayers and sermons.*[130]

Another respondent told of being the subject of exorcisms:
*They were exorcising the devil out of me at a church and at a mosque.*[131]

Another said religious followers proselytized her and tried to convince her to abandon her sexual orientation:
*Jehovah's Witnesses stopped me on the street and tried to hand me their books about marriage and family. I told them I was lesbian. They began to try to convince me that it was unnatural.*[132]

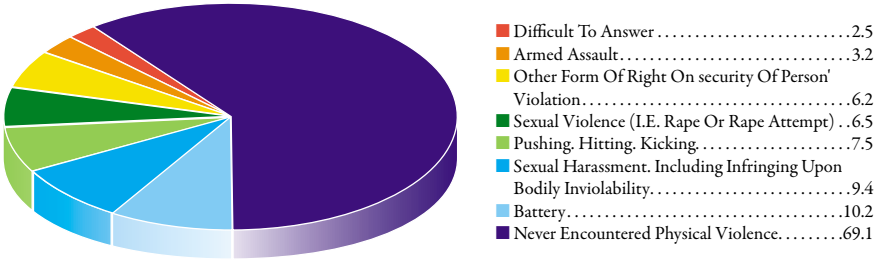
Another said:
*Once, Jehovah's Witnesses came up to me on the street and when they realized I was transgender, they became hostile.*[133]

## f. Violence and Hate Motivated Incidents

Physical violence experienced by LGBT people ranges from light pushes and kicks to severe bodily harm, and even assault leading to death. Physical violence often also causes victims deep psychological trauma and stress.

December 2008.
[128] Respondent #758, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[129] Respondent #451, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[130] Respondent #357, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[131] Respondent #201, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[132] Respondent #446, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[133] Respondent #576, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

**FIGURE 18 Type of the act of violence experienced by respondents, %, (n=991).** The percentages do not sum up to 100, since the respondents could choose more than one answer

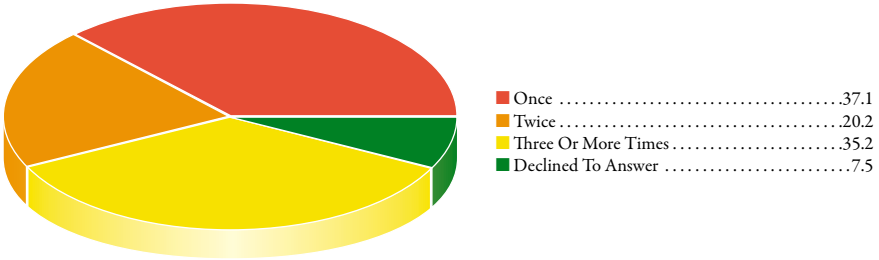



Respondents to the survey were given the option of specifying the types violence they had encountered. The options ranged from "never encountered physical violence" to battery, sexual harassment and molestation, pushing, hitting, kicking, sexual assault (i.e. rape or attempted rape), and armed assault. Some people also responded that it was difficult to answer the question.

According to the data gathered, 69.1% of all respondents have never experienced physical violence. However, more than a quarter of the respondents (27.4%) have experienced acts of homophobic or transphobic physical aggression or assault, including battery, sexual harassment, pushing, hitting, kicking, and sexual assault.

The data below regarding the frequency with which people suffered physical assault relates only to LGBT people who have suffered from some type of physical violence.

**FIGURE 19 Frequency of physical assault, % (n=267)**




Of all those who reported having suffered physical violence because of their sexual orientation or gender identity, one out of three were physically assaulted three or more times.

Further questions posed to respondents revealed that, in most cases (79.8%), the perpetrators were private individuals, and that the police were the second-most frequently cited violent aggressors (15%). The military were named as the perpetrators of violence by

4.1% of respondents, and only 1.9% said government officials carried out acts of physical assault. It is important to note that as many as 11.6% of respondents declined to identify those who committed acts of violence against them.[134]

When asked to specify who had committed acts of physical aggression against them, 28.6% of respondents answered that they had been assaulted by people they knew, 25.7% said the assailants were people unfamiliar to them, and 37.6% declined to identify the perpetrator(s). Perpetrators of violence who were known to respondents typically included classmates, friends, colleagues from work, neighbors, lovers, and relatives (of the respondent or his or her partner). Often, acts of violence were committed by strangers who would initiate a spontaneous fight in the street or in a café, or by aggressive homophobes who planned their "hunt" for LGBT people, either waiting for them in specific places frequented by LGBT people or setting up a fake date through the Internet or via third parties.

In terms of the age of the perpetrators, the most aggressive group was found to be people between the ages of 18 and 25 (44.6% of respondents said their assailants fit into this age group), while 37.8% of respondents said that acts of physical assault were committed by people between the ages of 26 to 40. By contrast, 17.2% of the perpetrators were youth under the age of 18, and only 7.5% of assailants were older than 50.[135]

## Types of Physical Violence against LGBT People

Researchers were provided with responses from 95 survey participants detailing specific incidents of violence committed against them because of their sexual orientation or gender identity. In order to focus particularly on homophobic and transphobic assaults, rather than random acts of violence, respondents were specifically asked to provide information about violence they had suffered when their sexual orientation or gender identity was known or suspected by the assailant(s).

The accounts given below describe assaults on LGBT people that took place in a variety of settings and circumstances. It is notable, however, that the majority (47.6%) of reported acts of physical assault against LGBT people occurred in public places – in the street, on public transport, in parks, entrances to houses, yards, or near the entrances to gay clubs and other places frequented by LGBT people. In 13.1% of the cases, respondents experienced violence in their own home; 12% of respondents identified school as the location of an attack; and 6.4% reported violence in the workplace. Notably, one out of

[134] There are a variety of possible explanations for respondents' reluctance to identify their assailants. One reason may be that the abusers were people close to the respondents. Another explanation may be that the perpetrators were police or other agents of the state from whom respondents feared retaliation.

[135] Given the high number of violent acts committed by people previously unknown to the victims, respondents' assessments of the ages of the perpetrators should be understood to be subjective approximations and open to error.

ten respondents declined to name the location where a given act of violence took place, and 21% of victims indicated other locations, such as a taxi, public bath house or sauna, disco, partner's or friend's apartment, a summer cottage, military barracks, police station, youth camp, or the open countryside.

The motives for acts of homophobic and transphobic violence are often rooted in heterosexual negation of other sexual orientations or gender identities, the desire to "punish," to "teach a lesson," and to change or "correct" people that homophobes view as "abnormal" members of society. From the respondents' descriptions of the violent assaults on them, it is evident that perpetrators use a wide range of violent methods to harm LGBT people. Abusive acts range from battery and rape to social exclusion and forceful confinement to a mental hospital.

One lesbian interviewed for this report had the following perspective on the motives of her abusers:

***The beatings follow the principle of "all against one," the underlying motive being my "deviation," my "abnormality." The violence is carried out as an act of tutoring, teaching and correcting me from the viewpoint of their "male power," which I failed to acknowledge. It's a way of presenting me with their idea of a "real man."***[136]

Many victims of physical violence declined to give detailed accounts of their experiences because of their highly traumatic character. Typical responses included: "It's difficult to go back to it" and "I don't want to recall all this."

LGBT people interviewed for this report described being beaten and otherwise physically assaulted by people in their communities because of their sexual orientation or gender identity. In some cases the assailants were known to the victims, but in many cases the violence was committed by strangers on public streets.

One interviewee reported:

***Two guys who suspected I was gay caught me at the entrance to my block of flats. They tried to force me to give them blowjobs. When I refused, they beat me up.***[137]

Another said:

***I live in a small town so rumors about my sexual orientation spread very quickly and the gang from my area decided to teach me a lesson. They broke my nose and kicked me.***[138]

[136] Respondent #522, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[137] Respondent #279, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[138] Respondent #294, name withheld. Testimony provided to researchers in Kazakhstan during the period October to

One woman reported:

***Once, we were in a certain place and men from the nearby houses caught some girls, including me, and attacked us with pistols and beat us up.***[139]

Another woman reported that a whole group of people took part in the violence against her:

***A mob beat me up when it became known that I was a lesbian. These people included my relatives, neighbors, classmates, acquaintances and complete strangers.***[140]

Another respondent said:

***Once I was walking home from the bus stop and I was attacked. They beat me with batons and kicked me with their boots and said that I should disappear or else they would kill me next time.***[141]

One man told researchers that he was beaten up and robbed by unknown assailants who beat him particularly severely because they suspected he was gay.[142]

Another respondent described being assaulted by police because of his sexual orientation:

***I was beaten up by the police when I was coming home from a café. They stopped to check my documents but when they realized who I was and what I was, they dragged me away from the streetlight and began to beat me shouting "you faggot." Then they stopped and said that if I reported this incident to the police, they would f*ck me right there.***[143]

In some cases, strangers in private establishments, such as cafés and restaurants, attack LGBT people.

One respondent told interviewers:

***I was sitting in a café with a girl. When I went out to the toilet, a guy hit me in the stomach and his friend told me that perverts like me have no right to walk around like normal people.***[144]

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December 2008.

[139] Respondent #059, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[140] Respondent #203, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[141] Respondent #260, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[142] Respondent #332, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[143] Respondent #230, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[144] Respondent #606, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Another said:

***The security guards and the owner of the café where I was sitting with my girlfriend dragged us into a side room near the café after we went out and started torturing us, threatening us with a gun, hitting, kicking and insulting us for three hours. Then they threw us out.***[145]

LGBT people also reported that attacks took place at schools and universities. In many cases the assailants were known to their victims.

One former student reported:

***At school where I studied, once I was invited to "talk" after class. Really, there were these guys from another class who had been planning to "give me a talking to." They didn't injure me too badly, but they let me know that next time it could be worse.***[146]

Another respondent said:

***At school I came out to a friend. She told the whole class and they harassed me the rest of the academic year, then I got myself transferred to another school. They pushed me in the corridors, insulted me, groped me and, one time, after school, they beat me until I was black and blue.***[147]

Another interviewee reported:

***Both at school and at university I was constantly physically assaulted. I never concealed my orientation at university and my classmates were always trying to cause me physical pain.***[148]

There were also instances of battery in the workplace.

One survey respondent said:

***A female colleague of mine constantly beats me up when she sees there is no one around.***[149]

In some cases, violent homophobes seek out targets for assault in places where LGBT people are known to gather. In particular, violent assailants and muggers appear to target customers of gay nightclubs. In some cases it may be that club goers are perceived as easy

[145] Respondent #575, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[146] Respondent #027, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[147] Respondent #141, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[148] Respondent #096, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[149] Respondent #178, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

targets and are more vulnerable to theft and violent assault because it is believed they are less likely to report incidents to police, while in other cases it appears that criminals particularly target people near these clubs for violence in retaliation for their sexual orientation. Regardless of the assailants' motives, the marginalization and ghettoization of the LGBT community puts LGBT people at greater risk for these types of attacks.

Several survey respondents described being beaten up or beaten and robbed outside a gay nightclub.[150]

One respondent told researchers:

***I was coming out of a gay nightclub at night and some guys attacked me. I was drunk, I didn't fight back and couldn't run away. They took my money and mobile phone.***[151]

The fact that many LGBT people feel compelled to conceal their sexual orientation can mean it is difficult to meet potential romantic partners and dating is often not conducted out in the open. As a consequence of these circumstances, LGBT people may have less opportunity to vet potential dates and may take on more risk in trying to meet potential partners. Violent homophobes sometimes take advantage of this situation by targeting LGBT people, luring them into dangerous situations under false pretenses, and assaulting them.

One respondent recalled such an incident:

***A guy invited me for a date, but he was a criminal homophobe who beat me up and tried to rape me.***[152]

Another respondent said:

***I met someone over the Internet, we made a date, but then I was set up and they took away my money and mobile phone.***[153]

One interviewee told researchers:

***We met over the Internet, went for a date; we talked, decided to rent an apartment, turned around the corner and then there were three or four people waiting. They beat me up shouting "kill the faggots!" I started to fight them off and somehow managed to run away.***[154]

[150] Respondents #243 and #220, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[151] Respondent #189, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[152] Respondent #721, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[153] Respondent #220, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[154] Respondent #365, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

LGBT people reported cases of sexual harassment and molestation committed against them because of their sexual orientation or gender identity. Many interviewees described the humiliation, fear and distress that such incidents caused them.

One survey respondent said:

***I looked like a girl, so people would laugh at me, grope and harass me at school and in my neighborhood.***[155]

Another said that several times men had tried to molest him in the restrooms of entertainment clubs.[156]

One respondent recalled:

***Some acquaintances invited me over to a party. There were also some guys there that I didn't know, straight guys, who tried to harass me. They touched me - which I disliked - and I asked them not to do it.***[157]

Another told researchers:

***Once I was traveling by train in the same coupe with a man who read text messages on my phone while I was away. When I came back he said that if I didn't give him a blowjob he would beat me up.***[158]

A number of respondents reported that assailants raped or attempted to rape them because of their sexual orientation or gender identity. Several respondents described these serious incidents of sexual assault.

Several people interviewed reported that classmates had raped them.[159]

One interviewee said:

***My classmates learned about my sexual orientation and began harassing me. First they just mocked me, then one day after class they caught me behind the school, beat me up and gang-raped me.***[160]

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[155] Respondent #489, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[156] Respondent #002, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[157] Respondent #531, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[158] Respondent #209, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[159] Respondent #083 and respondent #583, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[160] Respondent #088, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One woman described an attempt to rape her:

***My classmates learned that I was a lesbian. They decided to take revenge on me for some reason, to teach me a lesson. They caught me after school and wanted to rape me.***[161]

Another respondent said a friend raped him when he came out to him:

***When I was drinking with a friend I confessed that I liked men. First we fought because of this and then he took me by force.***[162]

Respondents also reported rape and attempted rape by strangers.

One interviewee said:

***A taxicab driver tried to rape me and insulted me after I turned down his advances.***[163]

One man described being attacked on a public street:

I was walking down the street and suddenly a burly guy appeared from around the corner and asked for a cigarette. I gave him an ESSE, and when he saw the slim cigarette, he told me that only chicks and faggots smoke such cigarettes. I answered that I didn't care what he thought. He grabbed me by the arm and said that he was going to rape me. I shouted, and he hit me and raped me.[164]

In some cases, LGBT people face homophobic and transphobic violence by those closest to them. Domestic violence against LGBT people appears to be prevalent in Kazakhstan. The incidents reported to researchers involved violent assault by a member of an LGBT person's immediate or extended family. Numerous respondents reported that their close relatives beat them or otherwise physically assaulted them because of their sexual orientation or gender identity. In some cases, the physical abuse caused serious injury, requiring medical intervention.

Several respondents said that family members responded with violence when they discovered, or suspected, the respondents' orientation or gender identity.

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[161] Respondent #451, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[162] Respondent #456, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[163] Respondent #038, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[164] Respondent #095, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One respondent told researchers:

***My brother beat me up when he learned about my orientation. I was in the hospital for two weeks with three broken ribs, a broken nose, and a head concussion.***[165]

Another said:

***My father and brother beat me up when they learned that I wanted to change my gender.***[166]

One gay man recalled:

***When my father began to suspect that I was gay, he beat me up.***[167]

Another respondent said:

***My brother-in-law attacked me when he started to suspect who I was. Afterwards, he banned me from ever approaching his children (my sister's children), ordered her to stop talking to me, and even wanted to shoot me.***[168]

Another interviewee described suffering serious injury from a domestic assault:

***I am transgender and it speaks for itself. When I first said that I feel like a woman and that I detest my male body, my father beat me for a long time, trying, as he thought, "to kick this sh*t out of my head." I suffered a concussion and was hospitalized.***[169]

Respondents also reported physical abuse by a partner's relatives in retaliation for their romantic relationship.

One respondent said:

***My lover's relatives beat me up.***[170]

Another reported that a friend's brother attempted to rape her because of her orientation and perceived romantic relationship:

***My girlfriend's brother decided that we had an intimate relationship (although we have always been only friends) and once, when I came to visit her, he tried to rape me. He said that I avoided men only because I never had a proper one.***[171]

[165] Respondent #574, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[166] Respondent #593, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[167] Respondent #622, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[168] Respondent #599, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[169] Respondent #201, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[170] Respondent #170, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[171] Respondent #066, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Several respondents reported that relatives forced them to undergo supposed "treatment" to "cure" them of their gender identity or sexual orientation.

One transgender respondent who was seriously beaten by a family member reported also being forcibly committed to a psychiatric facility:

***I suffered a concussion and was hospitalized and then was transferred to a mental hospital where I spent two and a half years until a new psychiatrist arrived and explained to my parents what the matter with me was.***[172]

Another respondent reported being beaten by relatives and compelled to undergo an exorcism:

***I was beaten up by my relatives – my mother and brother. They locked me inside and did not let me out for several weeks and then they made me go to a medicine man to be cured of shaitans (evil spirits).***[173]

## Obstacles to Safety and Justice

LGBT people face obstacles in attempting to obtain safety and justice when they are victims of violent assault. Research found that LGBT people cannot count on witnesses to violent homophobic and transphobic attacks to come to their aid and that police who receive LGBT people's complaints of violent assault are more likely to respond with hostility than to provide victims with help.

Almost half of the incidents of physical violence against LGBT people that were reported in our survey took place in front of witnesses.[174] The responses of witnesses to such attacks ranged from approval of the assault to apathy to intervention on behalf of the victim. The following are examples taken from 117 reports of attacks where witnesses were present.

Some respondents said that bystanders urged on their attackers.
One respondent said of witnesses:
***They booed me, supporting the attackers.***[175]

Another respondent reported:
***They wanted to join in.***[176]

[172] Respondent #201, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008. This case is also referenced above in the section on Discrimination in Health Care Settings, as it implicates not only the respondent's relatives, but also health care professionals.
[173] Respondent #163, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[174] Research showed that in 48.3% of violent assaults on respondents, witnesses were present.
[175] Respondent #522, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[176] Respondent #572, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Another said that during the attack witnesses engaged in taunting:

***They laughed at me, pointed at me, and took pictures of me on their mobile phones.***[177]

One respondent described the reaction of bystanders when they discovered the motive for attacks on him:

***It depends – sometimes they would say that I should be released and when they learned that I was gay, they would say "right, such perverts should be killed."***[178]

In other cases, violence against LGBT people was met with indifference.

One respondent said witnesses to an attack had an "indifferent reaction," and added, "no one will ever help in such a situation."[179]

Another said that bystanders offered "no support whatsoever."[180]

One respondent recalled that witnesses had "no reaction" to the violence, and that they "just stood and watched."[181]

There were instances also when those who witnessed an attack on an LGBT person took steps to protect the victim.

One interviewee reported that witnesses "tried to intervene" and that "the attackers ran away."[182]

Another said:

***Sometimes it helped, because the witnesses shouted that they would call the police.***[183]

Victims of violence also recalled that sometimes witnesses to the attacks on them had mixed reactions or appeared to be overwhelmed by fear or confusion.

[177] Respondent #719, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[178] Respondent #197, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[179] Respondent #097, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[180] Respondent #029, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[181] Respondent #012, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[182] Respondent #332, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[183] Respondent #363, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One survey respondent said:
***The girls tried to protect me. The boys wanted to, but were afraid.***[184]

Another said that witnesses responded with "laughter, contempt or helplessness."[185]

Victims of homophobic and transphobic violence cited a number of reasons for declining to report these crimes to the police, including fear of being outed and fear of the police themselves.

In most cases (74.5%), the victims of violence did not report the incident to the police. Only 14.6% did so, and 10.9% declined to answer this question. Of those who reported an act of homophobic or transphobic violence to the police, 38.5% received a negative reaction from law enforcement officers, 28.3% said law enforcement officers reacted neutrally, and only 5.1% said their complaints were welcomed. Of those respondents who reported violence to the police, about 18% described their situation differently (i.e. neither as negative, neutral nor welcoming), and 10.3% declined to answer the question.

Most (66.7%) of those who reported violence to the police declined to tell researchers whether the policemen knew about their sexual orientation. Only 11.6% said that, yes, the police knew about their orientation; 7.5% said police did not know; and other respondents were not sure.

The following explanations for the choice not to report a crime to police are taken from 125 responses provided by interviewees.

Many LGBT people who were victims of violent crime said they did not turn to police for help because they did not want to reveal their sexual orientation or they feared the consequences of having their sexual orientation or gender identity discovered.

Respondents expressed fear of public exposure[186] or being fired from their jobs.[187]

One respondent told researchers:
***I studied at school then and didn't want my parents to know anything.***[188]

[184] Respondent #705, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[185] Respondent #141, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[186] Respondent #014, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[187] Respondent #212, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[188] Respondent #703, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Another feared the possible consequences and predicted that "more serious problems may occur."[189]

One respondent expressed skepticism about the possibility of obtaining help from police and decided it wasn't worth the exposure:

***They wouldn't find anyone and everyone would know about me.***[190]

Other respondents said that feelings of shame and humiliation kept them from coming forward and reporting the violence.[191]

One said darkly:

***It would be better to die than to admit this.***[192]

LGBT people expressed a high degree of distrust of police and skepticism regarding law enforcement authorities' willingness to help LGBT people who complain of crimes committed against them.

One respondent said:

***What can you expect from the police? What kind of help?***[193]

Some respondents doubted police officers' ability to act in response to violence against LGBT people.

One said:

***The police can do nothing in such situations.***[194]

Another commented:

***The police prefer not to intervene in such cases because it is a very long story and such acts of violence are classified as hooliganism.***[195]

Others said that filing a complaint with police "makes no difference" and that "no investigation will follow."[196]

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[189] Respondent #025, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[190] Respondent #220, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[191] Respondents #704 and #435, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[192] Respondent #719, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[193] Respondent #002, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[194] Respondent #041, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[195] Respondent #085, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[196] Respondent #163 and respondent #722, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Some respondents were distrustful of police because they viewed them as homophobic:

***It's silly. Who is ever going to protect the rights of gays there?***[197]

Others expressed a general lack of faith in the police.[198]

In some cases, respondents expressed a deep fear of police as potential abusers.

One respondent said plainly:
***I was afraid of the police.***[199]

Another explained:
***Law-enforcement bodies often harass people.***[200]

Other respondents also said they did not file complaints about attacks on them because they feared additional physical abuse by police.[201]

Several respondents said they declined to go to the police because they anticipated officers would mock and humiliate them.[202]

One said:
***I thought it would be even worse there.***[203]

One woman told researchers:
***The police would not do anything at all, they would just blame the frivolity of the victimized girl.***[204]

[197] Respondent #720, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[198] Respondents #728 and #651, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[199] Respondent #721, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[200] Respondent #096, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[201] Respondents #863 and #707, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[202] Respondents #226 and #012, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[203] Respondent #140, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[204] Respondent #088, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

In some cases, police are the perpetrators of homophobic and transphobic violence. When the police are the assailants, victims of violence are often afraid to report these crimes.

As one respondent put it:
***It doesn't make sense to report the police to the police.***[205]

Another identified police officers as the attackers, saying:

It was the police all right.[206]

And another respondent said:
***Cops battered me.***[207]

When the assailant was a person close to the victim, the victim sometimes expressed concern about the consequences of reporting the incident to police.

One interviewee was reluctant to report violence by a family member and expressed skepticism about the willingness of police to act on such reports:
***It's my brother and had I reported him, the relationship with my family would only have gotten worse. The police wouldn't have helped me anyway.***[208]

Other respondents expressed some sympathy or forgiveness toward the assailant and said this influenced the decision not to lodge a case with police.

One respondent said:
***It's my father and I understand him in places.***[209]

In at least one case, a respondent said physical injuries incurred during a homophobic attack prevented reporting to police:
***I was not up to it, my face was covered in blood, I had a headache, it was all I could do to make it to the hospital.***[210]

[205] Respondent #048, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[206] Respondent #209, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[207] Respondent #713, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[208] Respondent #574, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[209] Respondent #697, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[210] Respondent #332, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One respondent informed researchers that there is no authority to which to complain about homophobic violence in the military:

***When you're in the army, where can you complain?***[211]

The testimonies provided by respondents indicate high levels of distrust of police among LGBT people. This lack of faith in police is often grounded in concrete experiences of intolerance and ill-treatment by law enforcement officers. LGBT people told researchers that, even when victims of homophobic and transphobic violence report the incident to the police, they often face indifference, intimidation and even hostility and violence by representatives of law enforcement bodies.

A number of respondents to our survey recalled times when police outright refused to accept victims' complaints or investigate crimes against LGBT people.

One respondent said of police:

***They said they wouldn't even bother investigating the incident.***[212]

Another told interviewers:

***I reported the incident but they refused to accept my application.***[213]

In another instance, police were willing to investigate an assault but not an apparent act of sexual harassment against an LGBT person:

***They opened the case about the act of violence, but suggested I drop the issue of sexual harassment.***[214]

A respondent who witnessed a homophobic assault recalled:

***I wasn't attacked, but two years ago I was a witness in a case when a visitor to a gay club was caught in the yard on his way back home and beaten. Those who saw that, of course, called the police. They asked us a lot of questions and that was it.***[215]

In some cases, because of the victim's sexual orientation, police blamed the victim for the violence committed against him or her.

One respondent who was assaulted said:

[211] Respondent #373, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[212] Respondent #260, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[213] Respondent #255, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[214] Respondent #279, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[215] Respondent #291, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

*They advised me to spend less time on the street alone and told me to bugger off.* [216]

Another victim of violence who turned to police said:
*On the assumption that I was gay, they said "you have yourself to blame."*[217]

In some cases, turning to the police can mean exposing oneself to the risk of additional homophobic or transphobic violence. A number of respondents reported that when they turned to police for protection and justice after suffering an illegal assault, the police forced them to withdraw their complaints, insulted and threatened them, and even physically assaulted them.

One respondent who was forced to withdraw a complaint said:
*The cops never came, although I called the police and asked them to come. Then I asked them to come to me to the hospital. Finally, I went to them myself. They asked me to withdraw my report and "make peace." Then they forced me to do this.*[218]

Another was compelled to withdraw a complaint under threat of violence:
*When I reported an incident of battery, as described in article 1, to the police, I finally realized what heterosexuals think of us. They threatened to gang rape me if I didn't withdraw my complaint.*[219]

Another respondent also reported being harassed by police and said they "wanted to rape me." [220]

One victim of assault who turned to police for help was then assaulted again, this time by the police themselves:
*At first their reaction was normal, but when I reported that the reason for the assault was my sexual orientation, they said: "you haven't gotten enough" and added up some more [beat me up].*[221]

[216] Respondent #095, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[217] Respondent #715, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[218] Respondent #709, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[219] Respondent #260, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[220] Respondent #101, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[221] Respondent #197, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

## A POLICE CONFESSION OF HOMOPHOBIA

***The following interview was contributed by journalist Ekaterina Belayeva.***

Law-enforcement officials carefully conceal all crimes related to homophobia in their official reports. The author inquired at one of the district police departments in Almaty about statistics on homophobic crimes and received the response that such crimes have never been committed in the city. However, in a private conversation one of the officers disclosed the true state of affairs:*

Officer – Several homosexuals are murdered within just one month in our district. We never talk about it openly.

***EB – Why?***

Officer – How do you see it happening? I have spent many years in the penitentiary system and have learned one thing for sure: no mother will want a public investigation of her son's murder if he was gay. She would be ashamed.

***EB – So, if you have no applications, do you write off murders as accidents or manslaughter?***

Officer – Mostly as accidents. Between you and me, some officers demand a reward for their "silence." Two of my colleagues have already bought cars this way. Actually, quite often we beat them ourselves.

***EB – What for?***

Officer – They are not men, are they? They simply put the whole nation to shame and must be gotten rid of. Punch them up a couple of times, maybe they will change their orientation...

***EB – What do your bosses think of these "acts of revenge"?***

Officer – Officially nothing. Unofficially this is one of the levers of pressure that often help an investigation. Or, to be more precise, it helps to obtain confessions and evidence. This, of course, improves the stats and therefore positively affects the reputation of the Kazakh law enforcement bodies.

***EB – Have you never thought that one day your son might come up to you and say: "Father, I'm sorry but I'm gay"?***

Officer – No, my family will never face such a shame. If it ever happens, I will kill him! The other day a guy left his family because his parents disowned him when they realized he was gay. He rented an apartment. The parents felt offended and told everything to his friends and he was basically left all alone. He turned to alcohol. Then, after another quarrel with his parents, he sprang out through the window. Why am I telling you this? When his parents came to identify the body, they just said: "Thank God we no longer have a pervert for a son." Now, I would not want such a son, either!

This frank exchange with an Almaty police officer offers us a chilling glimpse of the homophobia that pervades the Kazakhstan police force and contributes to law enforcement's failure to protect the safety of LGBT people and provide them with access to justice when they are victims of homophobic and transphobic attacks.

*Interview with a police officer in Almaty, provided in 2008 on the condition of anonymity.

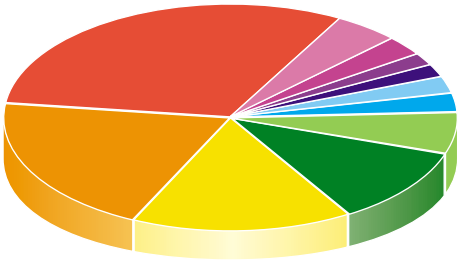
## g. Psychological Abuse

For the purposes of this report, psychological abuse is defined as causing a person mental or emotional harm through intimidation, ridicule, and other forms of verbal aggression, including disseminating negative opinions about and humiliating a person or his or her family. In everyday life psychological abuse against LGBT people often takes the form of homophobic and transphobic insults covering a spectrum of vulgarisms referring to the intimate lives of LGBT people. Psychological abuse can result in social exclusion of LGBT people, feelings of frustration, depression, psychological complexes, and even suicidal thoughts and attempted suicide.

Psychological abuse against LGBT people is even more common than physical violence. Of all respondents, only 47.6% indicated that they had never experienced any psychological abuse. In other words, one out of two respondents had been confronted with some form of hostility and prejudice because of his or her sexual orientation or gender identity.

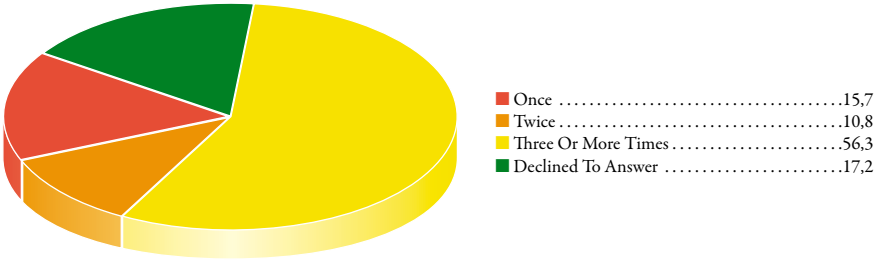
The most pervasive forms of psychological abuse that people committed against LGBT people were: verbal insults or aggression (30.6%); humiliation and ridicule (24.3%); and dissemination of negative opinions (17%). Respondents were also subjected to threats (9.1%), were blackmailed (4.2%), received hate mail (3.7%), incurred material losses (2.8%), and were targeted by anti-LGBT graffiti, posters or leaflets (2.7%).

**FIGURE 20 Type of psycological violence experienced by respondents, % (n=864).** The percentages do not sum up to 100, since the respondents could choose more than one answer




Of the respondents who experienced psychological abuse, more than half (56.3%) were targeted three or more times.

**FIGURE 21 Frequency of psychological abuse against respondents who were targeted, % (n=453)**




The following data relates only to the group of respondents who suffered from some form of psychological abuse.

The most common aggressors or perpetrators of psychological abuse are private individuals (70.6%) and police officers (11.9%). Psychological abuse of LGBT people was also committed by government officials (3.3%) and members of the military (3.3%).

Among private individuals, psychological abuse is frequently committed by people known to the victim (33.1%); and slightly less frequently by strangers (25.9%). It should be noted that about half of the victims of psychological abuse declined to identify the abusive party.

Respondents were asked about the age or approximate age of the perpetrators of psychological abuse. Teenagers, those under 18, were responsible for 18.8% of the incidents reported, people between 18 and 25 committed 48.6% of these acts, those between the ages of 26 and 40 were responsible for 35.8% of incidents, those in the 41 to 50 age group were responsible for 14.3% of the acts of psychological abuse, and people over the age of 50 were implicated in 11% of all such incidents. (The percentages do not sum up to 100, since the respondents could choose more than one answer)

Half of the respondents (50.8%) indicated the presence of witnesses. There were no witnesses to psychological abuse in 27.2% of the cases, and another 22.1% of respondents declined to answer the question about witnesses. The reaction of witnesses was sometimes hostile, but also often described as "neutral" or indifferent. Many victims of psychological abuse said witnesses seemed like "curious spectators" and appeared to be either amused or frightened by verbal attacks on LGBT people. In some cases, however, witnesses demonstrated sympathy or tried to protect victims.

The respondents reported that acts of verbal aggression frequently occurred in public places (42.8%), as well as at school (13.2%), and in the workplace (11.5%). A relatively small percentage (8.6%) of incidents were said to have taken place in the respondent's own home. In addition some verbal attacks (11.7%) occurred in other locations. More than a quarter of the respondents (27.6%) declined to disclose the location of the incident

of psychological abuse. (The percentages do not sum up to 100, since the respondents could choose more than one answer).

Respondents were unlikely to report acts of psychological abuse to law enforcement authorities. Only 6.2% reported incidents of verbal aggression to the police, 65.8% did not, and 28% declined to answer the question. As in cases of physical abuse, the principal reasons for victims' reluctance to turn to police were general mistrust of the police, fear of police and an expectation of hostility and prejudice on the part of police, and fear of exposure of one's sexual orientation or gender identity. In addition, some acts of verbal aggression were perceived by victims as not constituting a crime under the law and therefore not falling within the competency of law enforcement.

The experiences of LGBT people who turned to police reveal that the widespread fear and wariness of police is well founded. Police response tended to be hostile toward LGBT victims of abuse. Of those few LGBT people who reported acts of psychological abuse to the police, more than half (57.1%) encountered a hostile attitude, while 35.7% described the police response as "neutral," and only 3.6% of respondents reported that police treated them with a friendly attitude.[222]

Only 26.5% of respondents confirmed that the police knew about their sexual orientation, while the rest were either sure that police did not know, were not sure whether or not police knew, or declined to answer the question.

The following are some of the descriptions of the acts of psychological abuse committed against LGBT people, taken from interview testimony provided by 99 victims.

## Types of Psychological Abuse

Psychological abuse causes LGBT people pain and suffering and often becomes a factor that forces LGBT people to conceal their sexual orientation or gender identity, change their place of residence, work or study, break social contacts or become socially isolated, and even contemplate suicide.

LGBT people reported that they often suffer from insults and verbal attacks by acquaintances or even strangers on the street.

One respondent said:

***At university I was always ridiculed and smirked at. In public places I often heard stupid jokes and caught contemptuous glances.***[223]

[222] Another 3.6% of respondents answered "other."

[223] Respondent #096, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

Another respondent also recalled verbal abuse at school:
***My classmates constantly mock me and the teachers are no better.***[224]

Another respondent reported being insulted and refused service at a café:
***At a café they refused to serve me with my gay friends. They openly insulted us and demanded that we leave.***[225]

One respondent described being forced to move repeatedly because of psychological abuse:
***Very often. I am regularly mocked, people point at me, call me names. I have to change my place of residence every two months.***[226]

LGBT people are often the targets of curses and obscene jokes.[227]

One respondent said:
***I cannot repeat all the phrases I have heard.***[228]

Another interviewee described being the subject of mockery and said that people tell "salacious jokes and stories in my presence." This respondent also had experienced "unanimous towards me."[229]

Some respondents said that they were the subject of rumors and gossip by people in their communities.

One respondent said of co-workers:
***They spread negative gossip about me, which interferes with my work. They told everything to my parents.***[230]

In some cases, insults come from close relatives.

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[224] Respondent #088, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[225] Respondent #277, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[226] Respondent #230, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[227] Respondent #032, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[228] Respondent #117, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[229] Respondent #386, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[230] Respondent #038, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One respondent told interviewers:

***Since my mother learned about my orientation, I haven't lived a single day without hearing some humiliating comment from her. Now she feels squeamish about using the same plates as me.***[231]

Such psychological abuse can cause people deep anguish.

One respondent said:

***My mother, brother and sister-in-law often say things about me and sometimes I just want to commit suicide.***[232]

In other cases, state officials are responsible for psychologically abusing LGBT people, as in the following account:

***I was driving in my own car from Taldy-Korgan to Almaty when the traffic police stopped me and asked me to show them my driver's license. Then they started ridiculing me and asked whether I was a man or a woman. They searched my car to see "if there were any balls in it."***[233]

In addition to suffering verbal attacks, some LGBT people reported being the victims of hateful and insulting graffiti.

One respondent said:

***My whole staircase is covered with graffiti insulting me.***[234]

Others said that vandals drew obscene pictures and graffiti on their cars, scratched their cars, and left threatening notes.[235]

One respondent said of tormenters:

***They threatened me, said that they would beat me up, ridiculed me, wrote swear words on the walls, and set my door on fire.***[236]

LGBT people reported being threatened with violence. Given the frequency of physical attacks on LGBT people, such threats were taken seriously and caused LGBT people fear and anxiety.

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[231] Respondent #066, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[232] Respondent #574, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[233] Respondent #194, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[234] Respondent #606, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[235] Respondents #150 and #164, names withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[236] Respondent #396, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

One interviewee said:
***My husband threatened my girlfriend and me.***[237]

Another said:
***My father still threatens to kill me.***[238]

One respondent said of abusers:
***Several times they followed me to the staircase. No, they haven't beat me up, but they threatened me and insulted me. I feel frightened when I am coming back home in the evening.***[239]

Another respondent reported:
***I received phone calls threatening me with physical and sexual violence if I don't move to Holland.***[240]

Many LGBT people in Kazakhstan expend a good deal of energy and care concealing their sexual orientation or gender identity because they fear the consequences of coming out. They can experience mental and emotional suffering when others force them out by disclosing their orientation or gender identity without permission. These involuntary outings can also negatively affect LGBT people's friendships, family relationships and standing at work.

One respondent recalled:
***I liked a guy at work, I came out to him and he told everyone.***[241]

One woman told researchers:
***Some strangers called my parents and told them I was a lesbian.***[242]

Another respondent said:
***My ex-boyfriend came to my work and handed out leaflets about my orientation.***[243]

[237] Respondent #040, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[238] Respondent #593, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[239] Respondent #222, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[240] Respondent #621, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[241] Respondent #162, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[242] Respondent #695, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.
[243] Respondent #365, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

These involuntary outings can have serious practical consequences for LGBT people.

One respondent said:

***My neighbors began to suspect that we were a couple, and began shouting insults and spreading gossip about us when we simply walk across the yard. We are going to move.***[244]

Another reported:

***My relatives together with the relatives of my ex-husband, their friends and acquaintances, called my workplace and said that a pervert like me is not worth even talking to, let alone working with. They wrote defamatory letters to my bosses and in the long run I was sacked.***[245]

A similar incident was reported by another survey respondent who said:

***Relatives called my workplace and wrote letters to my boss and I was dismissed.***[246]

LGBT people related accounts of unscrupulous people discovering their orientation or gender identity and using this information to torment, exploit and blackmail them. The experiences of survey respondents indicate that they were not the targets of empty threats, but that their tormenters were often willing and able to inflict harm on them when the blackmailers' demands were not met.

One woman recalled being outed by a co-worker when she refused to submit to his threats and blackmail:

***My colleague somehow learned about my sexual orientation and threatened to tell everyone if my girlfriend and I did not invite him to bed. We did not yield to his blackmail and within two hours on every keyboard in our office there was a leaflet saying that I was a lustful lesbian soliciting young girls. I had to deny everything, but the public attitude toward me has changed anyway.***[247]

Another respondent was forced to quit a job after resisting a co-worker's blackmail attempt:

***A colleague of mine learned about me and said that she would tell everyone if I didn't pass up an offer of a position, so that she could take it instead. I refused and had to***

[244] Respondent #598, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[245] Respondent #068, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[246] Respondent #072, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[247] Respondent #054, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

***quit the job within a month because my colleagues changed their attitude toward me. There were some rumors.***[248]

In some cases, threats and blackmail come from people closest to the victims.

One respondent told researchers:

***My father told me that if I don't get married, he will tell everyone and he and my brothers will kill me because I dishonor the family.***[249]

[248] Respondent #163, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

[249] Respondent #622, name withheld. Testimony provided to researchers in Kazakhstan during the period October to December 2008.

# IV. CONCLUSIONS AND RECOMMENDATIONS

## Conclusions

The legal and sociological research presented in this report reveals that there is a need for amendment of the legal framework regarding the rights of citizens and that society in Kazakhstan needs to be sensitized to LGBT human rights. Kazakhstan has a long way to go to achieve full tolerance and acceptance of lesbian, gay, bisexual and transgender people.

More concretely, regarding legal issues, this report concluded that:

1. Criminal responsibility for sodomy was deleted from the criminal law of Kazakhstan in the 1990s. The new Criminal Code does not penalize consensual same sex acts. The only exception is made with respect to violent actions, sexual intercourse with a person below the age of consent, and coercion to sexual intercourse.
2. The Republic of Kazakhstan has signed several human rights international treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Both ICCPR and ICESCR prohibit discrimination on any grounds, including (as it follows from the UN Committee on Human Rights) discrimination on the ground of sexual orientation and (following the UN Committee on Economic, Social and Cultural Rights) on grounds of gender identity. Kazakhstan is also a signatory to the International Convention on the Elimination of All Forms of Racial Discrimination, which, by analogy, stipulates the principal requirements for prohibition and prevention of discrimination on any grounds.
3. The legislation of Kazakhstan prohibits discrimination on a number of grounds including "on the ground of any status." This includes discrimination on the grounds of sexual orientation and gender identity. Nevertheless, there is no special anti-discriminatory legislation in Kazakhstan that also includes prevention of discrimination on the grounds of sexual orientation. There are also no anti-discriminatory bodies or procedures in Kazakhstan.
4. The principal characteristics of Kazakh legislation with regard to provision of the rights of LGBT people are the absence of explicit discriminatory clauses against homosexual people and, at the same time, the absence of any mention of the rights of LGBT people, as well as of any legal tools for their protection from discrimination in all areas of life. In other words, the main deficiency of the Kazakh legislation in this area is the absence of legislative prohibition of discrimination on the ground of sexual orientation in different branches of the law (first and foremost in criminal and labor law). This creates the pre-conditions for the violation of rights and discrimination of LGBT people in various areas

of life. In legal practice there have been no documented precedents of any cases against discrimination on the ground of sexual orientation and it may be well judged that there have been no such court cases.

5. Kazakhstan does not recognize same sex marriages or same sex partnerships.

From the sociological research on discrimination of LGBT people in Kazakhstan the following conclusions can be drawn:

1. LGBT people in Kazakhstan face discrimination and prejudice on the grounds of their sexual orientation or gender identity during the course of their everyday lives. Manifestation of negative attitudes toward LGBT people, such as social exclusion, taunting, and violence often cause the victims physical, psychological and emotional harm.

2. 81.2% of respondents indicated that LGBT people are generally treated disapprovingly and without respect by people in society. In order to avoid the dangers posed by homophobes and transphobes, many LGBT people feel compelled to keep their sexual orientation or gender identity a secret from almost all people in their lives.

3. Due to the perceived and experienced discrimination and homo/transphobia, there is a general fear and disinclination on the part of LGBT people to come out to co-workers, acquaintances and even close friends. However, one in three LGBT people said they had shared information about their sexual orientation or gender identity with at least one relative.

4. Upon discovering a person's sexual orientation or gender identity, friends and relatives of LGBT people treated them in a variety of ways, ranging from warmth and acceptance, to rejection and isolation, to hostility and violence.

5. The majority of respondents regard it as necessary to conceal their sexual orientation or gender identity from people in the workplace in order to retain their jobs and avoid hostility from bosses and co-workers. However, a few complained of employment discrimination; the majority (64.1%) said they had not faced open discrimination in the workplace. The rates of workplace discrimination might reasonably be expected to be higher were LGBT people not pre-empting such conflict by keeping their sexual orientation and gender identity secret. Those cases of workplace discrimination that were reported by LGBT people included dismissal from a job and denial of promotion because of the employee's sexual orientation, as well as psychological abuse and social exclusion by colleagues.

6. At school and university, LGBT persons often suffer physical assault and psychological abuse, including taunts and threats, by classmates and teachers.

7. Most LGBT people deliberately conceal their orientation from neighbors and landlords. LGBT people are vulnerable to discrimination and harassment by neighbors and area residents. A number of respondents reported being persecuted by local gangs and hunted by homophobic thugs in the neighborhood. Some were forced to move to another town in order to escape harassment and violence by those in their community.

8. A similar pattern was found in relation to the health care system. The majority of LGBT people conceal their sexual orientation or gender identity from doctors and other health care workers in order to avoid discrimination. While only a small number of respondents said that doctors had treated them less favorably because of their sexual orientation or gender identity, in the cases when doctors were aware of it, their stories of being insulted, denied treatment, and even harassed were powerful and troubling and help highlight the need to address breaches of ethics and fundamental rights of patients by health care workers.

9. One in four LGBT respondents have experienced physical and psychological violence because of their sexual orientation or gender identity. Acts of anti-LGBT violence include beatings, punches, pushes, kicks, sexual molestation, and rape. Nearly one in three LGBT people who had been the victim of homophobic or transphobic violence had been assaulted at least three times or more. In most cases attacks on LGBT people are committed by private individuals, but in some cases the perpetrators are police. LGBT people encountered violence in a range of settings: on the street, in the workplace, at schools and universities, in cafes and clubs, on public transport, private homes, in dormitories, barracks, and police stations. In almost half of the cases reported, physical violence against LGBT people was committed in the presence of witnesses.

10. Attempts to report homophobic and transphobic violence to police are often met with resistance and even hostility on the part of law enforcement officers. Some respondents reported being insulted, threatened and even physically abused by police when they tried to lodge a complaint about an instance of anti-LGBT violence. The hostility of police was one reason respondents cited for a lack of trust in law enforcement and general disinclination to report transphobic and homophobic attacks. Respondents also cited a fear of coming out as a reason for their reluctance to turn to authorities for help.

11. Half of the LGBT people surveyed reported that they had been the victim of psychological abuse because of their sexual orientation or gender identity. Respondents reported being the targets of threats, insults, hate mail, and involuntary disclosure of their sexual orientation or gender identity (forced outings). In most cases those committing acts of psychological abuse against LGBT people are private individuals. The second-most often cited aggressors were police officers.

## Recommendations[250]

The realization of the full spectrum of human rights for LGBT people will depend on improved media coverage and awareness campaigns to counter misinformation and ignorance about homosexuality and gender identity, but also education reform, special training for police and health care professionals, and amendment of existing legislation to provide for explicit guarantees of equality for LGBT citizens. These changes will come about through initiatives by individuals and organizations, but they cannot be fully realized without the active cooperation of the state. The government of Kazakhstan has a key role to play to foster greater tolerance toward LGBT people in the country and to ensure that the acts of cruelty, violence, discrimination and denigration documented in these pages are never repeated. The following key recommendations will be crucial to reach that goal.

To the Government of the Republic of Kazakhstan

1. To introduce comprehensive legislation which provides for the right to equality and non-discrimination on all grounds and which specifically lists sexual orientation and gender identity among the protected grounds. In accordance with international best practice, this legislation should include precise definitions of discrimination (direct and indirect), should list which acts, omissions, behavior, policies, criteria etc. constitute discrimination; provide for independent institutional and procedural mechanisms to guarantee effective remedy for victims; create institutions responsible for the prevention and elimination of discrimination; allow the procedural possibility for proving discrimination using a standard of burden of proof, which recognises that the victims of discrimination are usually at a disadvantage e.g. visa-a-vis the employer, in obtaining evidence; prohibit discrimination in all spheres of public life whether by State or non-State actors; prohibit incitement to discrimination, harassment, and segregation; and ensure that sanctions in place are efficient, dissuasive and proportional.

[250] These recommendations were made by ILGA-Europe, the European region of the International Lesbian, Gay, Bisexual, Trans and Intersex Association. The Soros Foundation-Kazakhstan would like to thank ILGA-Europe for its input. Information about ILGA-Europe can be found on its website: http://www.ilga-europe.org/

2. To take all measures at its disposal, including the implementation of educational programmes on tolerance and non-discrimination within a human rights framework, to tackle prejudice and discrimination on the basis of sexual orientation and gender identity. Such .For these purposes the cooperation between the government and LGBT / human rights NGOs and the OSCE is encouraged.

3. To hate crimes. Such . The categories of sexual orientation, gender identity, and gender expression, should be included amongst the list of biases. The, The Government of Kazakhstan should be properly instructed, trained and be equipped with adequate procedures and resources to be able to identify, investigate and collect evidence of bias motives. In line with Kazakhstan's OSCE commitments to combat hate crimes and following ODIHR recommendations and guidelines, it is important that Kazakhstan joins the OSCE Law Enforcement Training Program on hate crimes to ensure effective implementation of such hate crimes legislation.

4. Though changing their sex both through medical procedures and through changing official documents,in practice transgender individuals encounter administrative hurdles. There is also a lack of agreement between the Ministry of Health and the Ministry of Justice as to whether transgender people should undergo medical intervention prior to changing the official sex in their documents. The Government is urged to ensure that the way that the law is interpreted by different ministries is consistent and in line with international best practice.

5. As a first step toward the realization of full equal rights for LGBT people in all spheres of life, ensure that same sex couples enjoy the same rights to property and to adoption of children as heterosexual couples.

6. That the Ombudsperson of the Republic of Kazakhstan include a section on sexual orientation and gender identity into his annual report.

To the Ministry of Health of the Republic of Kazakhstan

1. In the sphere of mental health, psychologists and psychiatrists should be encouraged to increase their knowledge about sexual orientation and gender identity and receive information and training as to how to approach these areas in line with international best practice. Consultation with civil society LGBT groups is an essential part in identifying where knowledge is insufficient and how the content of education and training can be improved.

2. It is essential in preventing and treating HIV, that vulnerable populations are encouraged to approach testing centers. This can only be achieved if individuals believe that testing will be done in strictest confidence and that medical professionals will be sufficiently knowledgeable about their particular needs. Research in this report indicates a very low level of trust towards medical professionals in this regard and the Ministry of Health is therefore urged to ensure through enforcement of ethical codes, additional training of medical professionals and through provision of accessible information to the general public, that trust and consequently take up rates for testing are improved.

To the United Nations

The UN Human Rights Council should raise the problem of hate crimes and need for effective legislation to protect the rights and equality of LGBT people within the context of the Universal Periodic Review of Kazakhstan and ensure that these issues are reflected in the outcome document.

To the European Union

The EU should insist on the adoption of comprehensive anti-discrimination legislation in Kazakhstan as part of its discussions with the authorities in light of the Partnership and Cooperation Agreement between the European Communities and Kazakhstan. It should also raise the question of the Ombudsperson including sexual orientation and gender identity within his annual report. EC should offer funding support to Kazakh LGBT groups through its EIDHR fund.

To the OSCE

1. Within its upcoming OSCE Chairmanship, Kazakhstan should highlight its commitment to democracy, rule of law, human rights, diversity and tolerance, also by including into its chairmanship program supplementary human dimension implementation meetings on these subjects, and specifically on the subject of sexual orientation and gender identity.

2. The OSCE should assist Kazakhstan in fulfilling its commitments in the fields of tolerance and non-discrimination and human rights. More specifically, the OSCE should offer existing tools, programmes and apply existing mechanisms, in particular the OSCE's Law Enforcement Officials Programme on Hate Crimes and the Human Rights Individual Complaint Mechanism (at OSCE Mission level).

3. The Personal Representative of the Chair-in-Office of the OSCE on Combating Racism, Xenophobia and Discrimination should address the Kazakh authorities on human rights violations as documented in this report.

To Donors

Provide support to LGBT groups in Kazakhstan to document discrimination and hate crimes against LGBT people and to pursue legislation that explicitly prohibits discrimination on the basis of gender identity or sexual orientation and that addresses hate crimes.

# APPENDIX 1: TEACHING TOLERANCE

***This essay was contributed by journalist Ekaterina Belayeva.***

The education system of any state, in addition to general knowledge, should also teach the culture of communication, skills needed to live in society, and tolerance towards people regardless of their race, ethnicity, religion, age, social and gender differences, or sexual orientation.

The Universal Declaration of Human Rights says that education "shall promote understanding, tolerance and friendship among all nations, racial or religious groups" (Article 26). The UNESCO General Conference adopted the special Declaration of Principles of Tolerance in 1995, in which it called for taking all positive measures necessary to promote tolerance in societies, "because tolerance is not only a cherished principle, but also a necessity for peace and for the economic and social advancement of all peoples." This document has a provision on education (Article 4), which reads: "Education for tolerance should be considered an urgent imperative; that is why it is necessary to promote systematic and rational tolerance teaching methods that will address the cultural, social, economic, political and religious sources of intolerance – major roots of violence and exclusion. Education policies and programs should contribute to development of understanding, solidarity and tolerance among individuals as well as among ethnic, social, cultural, religious and linguistic groups and nations."[251]

No textbook used in pre-school establishments, secondary schools or colleges in Kazakhstan contains information promoting tolerance towards homosexuals. Moreover, in many cases, teachers themselves act as a source of negative attitudes towards gays.

The persecution, suppression and public condemnation of LGBT people in post-Soviet countries complicates the development of many young LGBT people's self-esteem. Psychologists say that in this situation, acquiring self-respect is only possible for young LGBT when people learn to be more open about who they are. Society's acceptance of same-sex relationships and support for young people during the process of growing up and self-identification will help eliminate discrimination against the LGBT community in Kazakhstan. This acceptance can and should start with the provision of accurate information and the correct education of schoolchildren regarding sex and sexuality.

Unfortunately, the Ministry of Education and Science seems to adhere to the common state policy of ignoring the existence of LGBT people in Kazakhstan. Currently, neither universities and colleges, nor schools and pre-school establishments offer proper sex education.

[251] Yu. Shabayev, A. Sadokhin Ethnopolitologiya. Emphasis the author's own.

Sex education in Kazakhstan is now at its embryonic stage, which means that the failure to provide current and necessary information to young people contributes to underage pregnancies, an increase in the spread of venereal diseases, and a rise in the number of cases of HIV. Of course, this is above all linked to the history of our country and mentality of its people. In the Soviet Union, as we know, the topic of sex was taboo, as was the problem of sexually transmitted diseases.

After the break-up of the USSR, educational establishments in Kazakhstan, as in other post-Soviet countries, adopted a compulsory subject called "The ethics and psychology of family life." Sex education is now taught to Kazakh children and teenagers in biology classes and in separate subjects such as "health studies" and "fundamentals of life activity and safety."

However, not all teachers are qualified and ready to discuss sex with their students. This is not only because of teachers' possible personal opinions about this topic, but also their lack of skills required to discuss issues related to sex. Today's educators were, for the most part, educated during Soviet times, when sex was not even mentioned. The poor qualifications of teachers, combined with religious and cultural taboos in Kazakh society and the absence of Kazakh textbooks on the psychology of sexual relations and sexual orientation, creates a barrier to fostering tolerance towards LGBT people among schoolchildren.

At pre-school age, the main source of a child's information about sex is his or her parents. At the same time, methodological literature and audio and video material (animated films, audio books, etc.) influence the formation of a child's world outlook. Bearing this in mind, some countries, for example Britain, start sex education and its various aspects at a very early age. In Kazakhstan, the education system is undergoing reform, but it currently lacks the quality methodological material needed to teach the subject properly and develop tolerance. As one academic put it, "It is necessary to develop tolerance, respect and benevolence. However, it should be noted that current school textbooks do not contain a sufficient amount of material to foster tolerance among schoolchildren."[252]

Obstacles also exist to establishing education about tolerance at the university level. The author of this essay conducted an opinion poll among university teachers in Almaty during the summer and fall of 2008: 98 respondents between the ages of 28 and 62 took part in the poll. The study found that more than 87% of university teachers thought that students should not be educated about LGBT people, explaining that "they need to study, not to be preoccupied with nonsense;" another 12% were convinced that students

[252] T. Volkova, Professor, Dean of Social Sciences Department, the Kazakh-Germany University, Almaty, Kazakhstan http://www.ia-centr.ru/publications/189/

were already "advanced" in this sphere and that there was already a lot of information that helped promote tolerance towards sexual minorities. Only 1% of university teachers said they talked about tolerance in their classrooms.

In some academic circles one still finds open hostility toward LGBT people. Numerous statements made by fellows of the Kazakh Bolashak presidential scholarship program, which has been working for more than 10 years now, have shown the most telling results in the sphere of sex education in Kazakhstan.[253] In 2007, the Bolashak movement spoke against a gay club in Almaty. Bolashak fellows said: "These amoral phenomena are not acceptable in our society."[254] This sort of open rejection of LGBT people points to deeply rooted homophobia in our society.

In this current climate, is it any wonder that members of the LGBT community do not feel safe opening up about their sexual preferences and gender identities?

Conclusion

The provision of quality education and opportunity for the holistic development of young people's personality are inconceivable without quality sex education that is taught by qualified and specially trained teachers and that includes discussion of sexuality, gender identity and sexual orientation. In order to draft such an education program, responsible government officials need to involve parents and non-governmental organizations. Education that is based on the principles of respect for people's rights and individuality and that is supported by the state will go far towards helping to solve the problem of discrimination based on sexual orientation in Kazakhstan.

[253] This scholarship program aims to provide Kazakhstan's young people with the best education available at foreign universities.

[254] http://www.np.kz/engine/print.php?newsid=261&news_page=1

# APPENDIX 2: DISCRIMINATION AGAINST LGBT PEOPLE IN THE MEDIA

***This essay was contributed by Sergey Skakunov.***

Legal cases alleging discrimination on the grounds of sexual orientation are hard to win or even register in Kazakhstan. The country has developed a tradition of "velvet stigmatization" of people based on their sexual orientation, making discrimination cases hard to prove, even though discriminatory dismissal from jobs and other acts of discrimination so often take place. There certainly is no lack of evidence of discrimination and homophobic attitudes in Kazakhstan society today, not least in the popular media.

Thanks to some media outlets, views about gays are gradually changing in society, because a number of journalists are promoting more tolerant views. At the same time, the general stream of articles and media reports remains decidedly homophobic.

Homophobic moods reflected in the media are partly based on the personal views of journalists themselves who remain intolerant towards gays. For example, on a recent talk show on the topic of homophobia, a well-known journalist said: "Yes, I am an open homophobe and I do not conceal this." His statement points not only to the existence of homophobic journalists, but also the absence of any inhibitions restraining or condemning the expression of homophobic sentiments in society.

Homophobic sentiment is in fact so pervasive in Kazakhstan today that one can find anti-LGBT statements not only in articles about sexual orientation, but also in material that is not directly linked to the issue. A review of the material reveals that the extent of discriminatory views ranges from incorrect statements to open calls for violence against LGBT people. For example, in an article entitled "Not Sparing their Life," published in the Ekspress K newspaper on 8 February 2008, the authors made the following conclusion about the demographic problem in Kazakhstan: "Of course, in the country, where, according to statistics, there are four alcoholics, three drug addicts, two impotents and one gay to 10 girls, it is hard and even laughable to talk about real prospects for increasing the birth rate. The birth rate is falling – alcoholism is growing. Here it is either necessary to castrate gays or adopt polygamy."

The author of another article, "Hemorrhoids Candles or Sodomy in the Media," which is full of homophobic statements and was published on the zonakz.net website,[255] signed the piece under the penname M O Chigeyev, which reads as "mochi geyev" — meaning, "assault gays." Moreover, the author admitted that the article aimed to make "humiliating comments" and to identify gays among journalists. When writing about

[255] http://www.zonakz.net/articles/23184

the gay community, M O Chigeyev used the words "sodomites" and "blue rats," and expressed regret that he might have shaken their hands or eaten from the same plate.

Often, even when an article's author attempts to strike a politically correct note when writing about LGBT people, the article may still include jokes and statements humiliating gays. For example, an article entitled "Married to Her," published in the Vremya newspaper on 2 November 2006, ends with an anecdote about gays and comments by supposed specialist Anatoliy Mirzoyan, sexologist, who says: "Still no one can say what homosexuality is, both male and female – whether it is an illness or immorality. According to statistics, 8-10% of the population has homosexual inclinations. There are several reasons for this, but if the first experience of orgasm (both among men and women) happens in a gay relationship – this means, the person will go along this path..." As a result, this so-called specialist reinforces the "diagnosis" and myth that if someone experiences sex with a gay person, especially at a young age, he or she will be infected with the "virus of a pervert."

## Conclusion

Members of the media in Kazakhstan need to take more care in their coverage of LGBT people and issues. In keeping with well-established standards of quality and ethical journalism, the media should provide people with timely and accurate information about events taking place in their country and around the world. Journalists should adhere to the guiding principles of journalism: neutrality and objectivity. Whether out of a sense of moral duty or legal responsibility, it is time for true professionals in the media – editors as well as journalists – to stop promoting discord and defamation.