**COVID-19 and the increase in violence against women in Kazakhstan**

***This submission is prepared by “Feminita” Kazakhstan Feminist Initiative***

1. *To what extent has there been an increase of violence against women, especially domestic violence in the context of the COVID-19 pandemic lockdowns? Please provide all available data on the increase of violence against women, including domestic violence and femicides, registered during the COVID-19 crisis.*

“Feminita” Kazakhstan Feminist Initiative is conducting a survey among lesbian, bisexual, queer and transgender (LBQT) women in Kazakhstan on the impact of COVID-19 on the given population. At the moment, more than 150 women filled the questionnaire. According to the preliminary findings of the survey, 7% of the respondents have faced some form of domestic violence during the pandemic and the consequent lockdown. Among the perpetrators of domestic violence against LBQT participants of the survey were their parents and close relatives, as well as intimate partners. This shows that the prevalent stereotype that domestic violence is absent among same-sex couples is not correct, and the problem of domestic violence in lesbian couples should be taken into consideration while tackling the issue of domestic violence.

Moreover, among others, the respondents wrote that they faced emotional, as well as sexual abuse from their employees and colleagues during the COVID-19 pandemic. Most of them due to the financial recessions amid coronavirus were compelled to agree on the terms that were not acceptable, and were constantly mistreated by their co-workers and employers on the basis of their sexuality and gender identity, and threatened of outing and physical violence if they complain about the work conditions.

It can also be seen that the level of hate speech with the incitement for physical violence against LBQT women has been prevalent during the COVID-19 lockdown in Kazakhstan. One of the cases include the case of Khuat Khamitov, an MMA fighter who initiated hate speech content on his personal social media page, having more than 250 thousand followers. An openly lesbian activist woman, who confronted him on this matter, later received death threats from the followers of Mr. Khamitov. Due to the lack of access to LBQT or friendly shelters and state measures enforcing strict lockdown (prohibition to travel within city/country; closed international, internal borders and transport communication), the problem of relocation was one of the main immediate concerns at that moment.

1. *Are helplines run by Government and/or civil society available? Has there been an increase in the number of calls in the context of the COVID-19 pandemic?*

The preliminary results of the survey indicate that less than 1 percent of the respondents reached out to helplines or the help of shelters and other NGOs on domestic violence issues. While, it could be interpreted as the indication of the low level of prevalence of violence against LBQT women during the pandemic, in fact, it might rather point to the fact that the vast majority of such services are not accommodating to the needs of LBQT women, demonstrating general prejudice and stigmatization. “Feminita’s” own experience on collaborating with a shelter for the survivors of domestic violence has shown that this tends to take place, unfortunately. Moreover, the general discourse on domestic violence in Kazakhstan stresses only heterosexual marital violence, creating a false understanding that only heterosexual cisgender women can suffer from domestic violence. This, in its turn, presents an obstacle for women from LBQT population to reach out for help in cases of crisis.

1. *Can women victims of domestic violence be exempted from restrictive measures to stay at home in isolation if they face domestic violence?*

Despite the fact that victims of domestic violence can be exempted from restrictive measures to stay at home in isolation if they face domestic violence, the main problem is that during the lockdown the shelters were overflown by women. Moreover, as it was stated above, in most cases, due to high levels of prejudice in the existing shelters against LBQT women, they might not have any other alternatives other than staying at home with their offenders. This was indicated in several responses, where the participants complained about the increased occurrences of physical and emotional violence from their same-sex partners and the inability to leave.

1. *Are shelters open and available? Are there any alternatives to shelters available if they are closed or without sufficient capacity?*

As of today, there are no shelters, specifically for LBQT women, and most of the existing shelters for survivors of domestic violence cannot provide adequately safe spaces for LBQT women, who have to stay there. Therefore, all of the security measures, including relocation in case of danger and occurences of violence at home are mostly dependent either on an individual herself, or queer (friendly) NGOs. It is important to mention that the latter do not have sufficient capacity to sustain a shelter due to the lack of financing, whereas LBQT individuals themselves might already be under the financial burdens to afford relocation.

1. *What are the impacts of the current restrictive measures and lockdowns on women's access to health services? Please specify whether services are closed or suspended, particularly those focusing on reproductive health.*

Many respondents to the survey indicated that among other basic needs that have been unmet due to the lockdown was the inadequate access to medical treatment, including specialists, such as mental health specialists, etc. Moreover, due to the financial difficulties exacerbated by the lockdown, some of them could no longer afford private clinics, while the public ones were closed. Those who lived in small towns complained that due to the lockdowns, they could not reach specialists who are only present in big cities. Moreover, those who reached out for psychological help on the hotlines complained that some of the specialists were sexist and homophobic, discouraging them further to seek any help.

**Discriminatory legislation reviewed amidst the state of emergency and quarantine enacted due to COVID-19**

*1. “Anti-gender” draft law*

On 24 April 2020 Mazhilis (the lower chamber of the Parliament of the Republic of Kazakhstan) commenced consideration of the draft Law "On Introduction of Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on Family and Gender Policy” (‘Draft Law’) (available at: <http://www.parlam.kz/ru/mazhilis/itreceived>). The Draft Law proposes amendments to the Law “On State Guarantees on Equal Rights and Equal Opportunities for Men and Women” dated 8 December 2009 (‘Law’) as follows:

1. To change the term **“gender equality”** to the words **“equality on the basis of sex”** throughout the entire text of the Law.

2.To amend the Preamble of the Law *(“The current Law regulates public relations in the sphere of ensuring state guarantees on equal rights and equal opportunities for men and women and establishes fundamental principles and norms on* ***creating the conditions for gender equality in all spheres of state and public life****”)* to read as follows: *“The current Law regulates public relations in the sphere of ensuring state guarantees on equal rights and equal opportunities for men and women and establishes fundamental principles and norms on* ***achieving equality on the basis of sex in all spheres of life****”*.

3. To repeal paragraph 1 of Article 1 [on Key concepts used in the Law] *(****“1) gender is a social aspect of relations between men and women which manifests itself in all spheres of life”****)*.

4. To amend paragraph 2 of Article 1 *(“****2) gender equality*** *is a legal status which guarantees men and women equal rights and equal opportunities and real access to participation in political, economic, social, public and cultural spheres of life irrespective of sex”)* to read as follows: *“****2) equality of the basis of sex*** *is the presence of general and specific rights which establishes opportunities for achievement of equal results by representatives of male and female sex in all spheres of life”*.

On 6 June 2020 at the second meeting of the working group on the Draft Law the drafters supported the amendments and further suggested to change the “gender equality” term to **“equality of men and women”** defining the equality as “the presence of general and specific rights which guarantee achievement of de facto equality of men and women in all spheres of life”.

In “Reasoning and Approach” of the Draft Law the drafters claim that the amendments are designed to implement Article 2(a) of CEDAW in line with “the recommendation of gender analysis of legal acts of the Republic of Kazakhstan” which concluded that **“gender equality is a sociological category, but not a legal and regulatory category”**.

In the third periodic state report on implementation of ICCPR presented by the Ministry of Justice to the local civil society on 25 June 2020 the State party notes that the Draft Law with “amendments designed to change the terms “gender”, “gender equality” to the term “equality on the basis of sex” is developed as a planned measure to implement the Human Rights Committee recommendation on equality and non-discrimination (paras. 37-38 of the report). Yet, it is worth noting here that the Committee’s recommendation in question on Kazakhstan’s anti-discrimination legal framework in the second periodic review was worded as follows:

*“10. The State party should ensure that its anti-discrimination legal framework: (a) explicitly lists sexual orientation and gender identity among the prohibited grounds for discrimination; (b) provides adequate and effective protection against all forms of discrimination, including in the private sphere; (c) prohibits direct, indirect and multiple discrimination , in line with the Covenant and other international human rights standards; and (d) provides for access to effective and appropriate remedies to victims of discrimination. The State party should also ensure that no form of discrimination or violence against persons based on their sexual orientation or gender identity is tolerated and that such cases are properly investigated and sanctioned. It should review the procedures for gender-reassignment surgery and sex change with a view to ensuring their compatibility with the Covenant”* (available at: <https://bit.ly/2VaPpWB>).

In an interview MP Unzhakova, an initiator of the amendments, stated that there are 50 different genders and that legislators aim at reinstating two sexes: men and women. MPs also highlighted that the legislative novelties are based on “international best practices”.

In light of the above, we express our grave concern that the amendments in the Draft Law constitute complete erasure of the concept of “gender” from national legislation and replacement of the term “gender equality” with “equality on the basis of sex” and (or) “equality of men and women”. Noting that concepts of gender and sex are not interchangable, we are concerned about potential effects of the Draft Law on equality and non-discrimination of all people, including women, gender-diverse, gender non-conforming and transgender people.

We would like to remind the State party that its international human rights obligations under Articles 2 of ICCPR and ICESCR, and Article 1 of CEDAW encompass an obligation to ensure equality and non-discrimination where gender is considered as a protected characteristic along with the category of sex (e.g. CEDAW, General Comment №28 (2010). We express our disappointment with the fact that the amendments noncompliant with international human rights law have been presented by the State party as a positive effort to implement its international human rights obligations, including recommendations issued by the Human Rights Committee and CEDAW. We would also like to draw attention to the fact that “international best practices”, referred by lawmakers, stem from a right wing conservative rhetoric supported by nationalistic neo-fascist lobbyist groups targeting so-called gender ideology in a number of countries in Eastern Europe, Latin America and post-soviet region and do not constitute widely accepted customary and (or) treaty-based international human rights standards and practice.

We remind the State party that “gender” is a social and legal category, accepted in the above-mentioned international treaties, and its erasure directly affects Kazakhstan’s compliance with obligations under those treaties as well as obligations under t[he **2030 Agenda for Sustainable Development**](https://sustainabledevelopment.un.org/post2015/transformingourworld) encompassing **Sustainable Development Goals (SDGs)**,and **Beijing Declaration and Platform for Action**.

Furthermore, we are highly concerned with the fact that initiation of the Draft Law went **without public awareness** and its further discussion has been taking place with minimal participation of independent civil society organisations and activists, with expertise in the sphere of gender equality and non-discrimination, as well as lack of transparency and access to information on relevant developments on the Draft Law under **state-wide quarantine due to COVID-19 pandemic** (contrary to the right to participate in public affairs under Article 25 of ICCPR and Article 33 of the Constitution of Kazakhstan).

*2. Amendment No. 539 to the draft “Code on the health of the people and the healthcare system”*

The proposed amendment is envisioning raising the age of the access to medical and social services for trans people from 18 to 21, making it impossible for trans people to exercise their right to legal recognition of their gender and is against international human rights standards. This extremely discriminatory amendment puts under higher risk entire population of transgender people of all ages in Kazakhstan, reversely affecting their access to sensitive issues, such as hormonal therapy, prevention of HIV, mental health services, etc. In case this amendment is accepted by the Government of the Republic of Kazakhstan, in the longer term, taking into consideration the possibility of further waves of COVID-19 and possible lockdowns, this might become a critical obstacle in exercising the right to health for transgender women. Taking into account the intersectionality of the problem, where due to the complicated legal framework in gender recognition in Kazakhstan, many transgender women are compelled to become sex-workers in order to sustain their lives. Denied access to medical services might exacerbate the problem with violence that transgender sex workers face on a daily basis, as well as increase the risks of HIV and STIs.