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2. Is there any independent evidence that hospitals in Mongolia refuse to treat persons who are gay?

Independent evidence on whether or not hospitals in Mongolia refuse to treat persons who are gay is limited to that presented by lesbian, gay, bisexual and transgender (LGBT) advocates operating within the country. Based on testimonies and anecdotal reports, LGBT groups conclude that discrimination in health services against gays is practised and that a widespread fear exists among homosexuals that disclosure of their sexuality would lead to a denial of health services. Institutional discrimination within the health sector derives from the negative attitudes toward homosexuals, which are reportedly widespread within Mongolian society.¹ Evidence specific to homosexual men is rare; reports by advocates in Mongolia largely use the generic term LGBT or provide examples specific to lesbian women.

Alternate sources of evidence on this issue, such as from the government and media, were not found. Government legislation and policy does not refer to the term 'homosexual' except with reference to high risk groups for HIV/AIDS. Senior government officials have shown ignorance on matters relating to sexual orientation, and members of the homosexual community are reluctant to report negative experiences to the police or legal authorities for fear of retribution.² Media reporting on issues pertaining to the gay community is said to be often derogatory or sensationalist.³

While discrimination in the health sector is said to be widespread, in reports holding this view no specific examples of denial of health services to homosexuals are given. There are examples, however, of people fearing to disclose their sexuality to medical staff for fear of the negative consequences. In an email to the Tribunal in 2006, Robyn Garner, a leading advocate and author on the LGBT community in Mongolia, related the following case of a person who did not disclose their homosexuality to the hospital for fear of negative consequences:

Because of the institutionalisation of the intolerance and discrimination (all levels of government, police, the legal and health sectors and the media) and the reality that there is very little, if any, likelihood of legal recourse, victims in the main do not

¹ Mongolian LGBT Centre and the Sexual Rights Initiative 2010, *Report on Mongolia - Ninth Session of the Universal Periodic Review – November 2010*, Mulabi: el Espacio Latinoamericano de Sexualidades y Derechos website, p.2 <http://www.mulabi.org/epu/9th%20round/Mongolia.pdf> - Accessed 5 July 2010 – Attachment 1; Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia - Shadow report for the 42nd CEDAW Committee Session 2008*, pp.3, 5, 7 – Attachment 2.

² Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia - Shadow report for the 42nd CEDAW Committee Session 2008*, p.5, 10 – Attachment 2; 'Koletschaka, P. 'Break the silence over LGBT issues with regional solidarity', 2009, Asia Human rights Defender Newsletter, vol. 5, no.2, September, p.52 – Attachment 3.

³ US Department of State 2010, *2009 Human Rights Report: Mongolia*, 11 March – Attachment 4; Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia - Shadow report for the 42nd CEDAW Committee Session 2008*, p.6-7 – Attachment 2.

report incidences of discrimination or violence for the very real fear of further harassment, predominantly from the police...

I have travelled widely in Mongolia, and it has been my experience that there are very few lesbians and gays who have escaped harassment and violence when their sexual orientation has become known. The violence most often comes from family members. Indeed, I have witnessed the immediate results of one such familial assault in which the victim in question was savagely beaten with a club by an uncle, an attack solely based on sexual orientation. **The victim was fortunate enough to be able to escape, but with serious injuries that required hospital treatment. The reason behind the assault could not be disclosed to medical authorities, nor could the assault itself be reported to police for fear of further violence.** The retributive violence of the police is similarly supported by anecdotal evidence and is a very real fear for lesbians and gays. Such beatings are by no means isolated incidents, and equally affect lesbians and gays in both urban and rural areas.⁴

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5. Please provide general background information on the treatment of gays in Mongolia.

Reporting on the treatment of the estimated 300 000 members of the homosexual community in Mongolia is not extensive or systematic.⁵ One positive development in the treatment of gays occurred in December 2009, with the government allowing official registration for the first time to the leading gay advocacy group, the LGBT Centre based in Ulaanbaatar. According to the LGBT Centre and other gay advocacy groups in Mongolia, however, ill-treatment of this minority group remains high across society and legal protections against ill-treatment are non-existent. The most common and serious forms of ill-treatment are those perpetrated by families and the police and intelligence authorities. These include threats, ostracism, surveillance, monitoring, arbitrary arrest, and physical and sexual assault while in custody.

In December 2009, the government granted legal registration for the first time to the LGBT Centre based in the capital Ulaanbaatar. Registration is with the Legal Entities Registration Agency.⁶ The LGBT Centre is the principal non-government organisation dedicated to reducing discrimination and harm against the LGBT community. The Centre's director and prominent Mongolian gay advocate, Robyn Garner, indicated in a February 2010 interview that the main effects of the registration are (1) that the gay community now knows that it has a legally mandated body to advocate on its behalf and (2) that the Centre is now in a position to engage directly with government and its agencies.⁷ The registration followed three years of effort and at least 10 failed registration attempts in 2009, in addition to intervention from international and UN organisations.

⁴ Garner, R. 2006, Email to RRT Country Research: 'Re: harassment of lesbians in Mongolia', 25 August – Attachment 5.

⁵ For this estimate see Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia - Shadow report for the 42nd CEDAW Committee Session 2008*, p.8 – Attachment 2.

⁶ International Gay & Lesbian Human Rights Commission 2009, 'Mongolia: First LGBT Advocacy NGO Registered and Recognized by Government', 16 December <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1049.html> - Accessed 5 July 2010 – Attachment 9.

⁷ Association for Women's Rights in Development (AWID) 2010, 'LGBT Rights Gain a Foothold in Mongolia', 4 February <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/LGBT-Rights-Gain-a-Foothold-in-Mongolia> - Accessed 5 July 2010 – Attachment 10.

While acknowledging the importance of registration, in the same February 2010 interview, Garner indicated that ill-treatment of this minority group remains high across society and legal protections against ill-treatment are non-existent. Based on testimonies and anecdotal evidence presented to LGBT groups, these groups have consistently indicated that the most common and serious forms of ill-treatment for homosexuals in Mongolia are those perpetrated by families, the police and intelligence authorities.⁸ LGBT groups believe family violence in the form of threats, taunts and ostracism are almost universally experienced by those who reveal their sexuality within the family. Police and security authorities engage in “covert surveillance of known LGBT persons, keeping files on known LGBT persons, monitoring LGBT social events and photographing/filming those in attendance, phone-tapping, arbitrary arrests, intimidation, threats, and physical and sexual assaults on LGBT persons while in custody.”⁹ In February 2010, Garner also indicated that extreme ultra-nationalist groups pose a new threat for the gay community in the form of gang attacks:

In general, how are LGBT persons treated in Mongolia?

The short answer is badly. Discrimination, misunderstanding, ignorance and outright hatred exist at all levels and in all areas of society. To be gay or transgendered in Mongolia is to be an outcast; the overwhelming majority of LGBT people choose to live extremely closeted lives. They live in fear, and understandably so. The threat of violence, the loss of livelihoods, the loss of housing and the loss of family and friends is real. Most of the documented violence has been familial, with LGBT people attacked by a family member when their sexual orientation and/or gender identity is suspected or has become known. **However, recently – with the surge in extreme ultra-nationalist groups – we have seen an alarming rise in gang attacks on gay men and transgendered persons.** Also, because the LGBT community has a legitimate fear of secondary violence by police, these attacks have not been reported.

There are no legal or constitutional protections for LGBT people in Mongolia. In essence, legislatively and constitutionally, they are invisible. Persecution by the police and the General Intelligence Agency (GIA) is common. We know, for example, that the GIA keeps a record of known homosexuals in Mongolia and engages in active surveillance of LGBT people. We also have anecdotal evidence of arbitrary police detentions and violence while in custody....

Basically, it's dangerous to be gay or transgendered in Mongolia.¹⁰

Current reports by the US Department of State and Amnesty International give similar assessments on the treatment of gays to those presented by LGBT groups in Mongolia.¹¹ The US Department of State highlights that while homosexual conduct is not specifically proscribed by legal instruments, a section of the penal code that refers to “immoral gratification of sexual desires” has the potential to be used against

⁸ Association for Women's Rights in Development (AWID) 2010, 'LGBT Rights Gain a Foothold in Mongolia', 4 February <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/LGBT-Rights-Gain-a-Foothold-in-Mongolia> - Accessed 5 July 2010 – Attachment 10; Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia - Shadow report for the 42nd CEDAW Committee Session 2008*, pp. 5-6 – Attachment 2.

⁹ Mongolian LGBT Centre and the Sexual Rights Initiative 2010, *Report on Mongolia - Ninth Session of the Universal Periodic Review – November 2010*, Mulabi: el Espacio Latinoamericano de Sexualidades y Derechos website website, p.2 <http://www.mulabi.org/epu/9th%20round/Mongolia.pdf> - Accessed 5 July 2010 – Attachment 1.

¹⁰ Association for Women's Rights in Development (AWID) 2010, 'LGBT Rights Gain a Foothold in Mongolia', 4 February <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/LGBT-Rights-Gain-a-Foothold-in-Mongolia> - Accessed 5 July 2010 – Attachment 10.

¹¹ Amnesty International 2010, *Annual report – Mongolia*, 28 May – Attachment 11; US Department of State 2010, *2009 Human Rights Report: Mongolia*, 11 March – Attachment 4.

persons engaging in homosexual conduct. In 2003, DFAT advised that social attitudes on homosexuality remained negative, particularly among the conservative older generation, with more accepting attitudes among the younger urban population; and that a negative portrayal of homosexuals exists in popular tabloid newspapers, which reinforce negative social attitudes.¹²

Not all homosexuals experience completely hostile attitudes and treatment from family members. An undated report on the *Mongol dyke* website accessed in 2006 provides one gay person's account of their path to eventual acceptance by some of their family. The anonymous author concludes that her experience is not the exception and many LGBT Mongolians are accepted by their families:

...LGBT Mongolians have often said that it is more difficult to come out to one's parents and close friends than to strangers. The opposite has been my experience...though her [my mother's] first reaction of shock, **disbelief and guilt-trip did last for one or two years**, we worked out the truths: I was still the daughter she gave birth to and she still loved me no matter my sexual orientation. **My siblings were most shocked and disgusted with me initially, but years went by and I came to see one of my sisters accept me wholly and unconditionally as I am, while another one still rejects me.** My coming out to my friends has also been more or less smooth – only one of my long-standing friends chose to reject me because of my sexuality, and others were only happy that I was happy.

Although it took number of years to make peace with my family members about my identity, I am blessed that I can share my life with them ... **I am not an aberrant case where my family had come to accept me as a lesbian, there are many LGBT Mongolians who are out to their families and friends, and who have also been accepted as lesbian or gay.**¹³

6. Deleted.

Attachments

1. Mongolian LGBT Centre and the Sexual Rights Initiative 2010, *Report on Mongolia – Ninth Session of the Universal Periodic Review – November 2010*, Mulabi: el Espacio Latinoamericano de Sexualidades y Derechos website website, p. 2
<http://www.mulabi.org/epu/9th%20round/Mongolia.pdf> – Accessed 5 July 2010.
2. Garner R. & Nyamdorj, A. 2008, *The Status of Lesbian and Bisexual Women and Transgendered Persons in Mongolia – Shadow report for the 42nd CEDAW Committee Session 2008*.
3. Koletschka, P. 'Break the silence over LGBT issues with regional solidarity', 2009, Asia Human Rights Defender Newsletter, vol. 5, no.2, September.
4. US Department of State 2010, *2009 Human Rights Report: Mongolia*, 11 March.

¹² DIMIA Country Information Service 2003, *Country Information Report No. 40/03 – Mongolia: Homosexuality in Mongolia* (sourced from DFAT advice of 28 February 2003), 4 March, Answer 3 – Attachment 12.

¹³ 'Parents, Families and Friends of Mongolian Lesbians and Gays' (undated), *Mongol Dyke* website <http://www.mongoldyke.org.mn/pflag.htm> – Accessed 18 July 2006 –Attachment 13.

5. Garner, R. 2006, Email to RRT Country Research: 'Re: harassment of lesbians in Mongolia', 25 August.
6. Deleted.
7. Deleted.
8. Deleted.
9. International Gay & Lesbian Human Rights Commission 2009, 'Mongolia: First LGBT Advocacy NGO Registered and Recognized by Government', 16 December <http://www.iglhrc.org/cgi-bin/iowa/article/takeaction/resourcecenter/1049.html> – Accessed 5 July 2010.
10. Association for Women's Rights in Development (AWID) 2010, 'LGBT Rights Gain a Foothold in Mongolia', 4 February <http://www.awid.org/eng/Issues-and-Analysis/Issues-and-Analysis/LGBT-Rights-Gain-a-Foothold-in-Mongolia> – Accessed 5 July 2010.
11. Amnesty International 2010, *Annual report – Mongolia*, 28 May.
12. DIMIA Country Information Service 2003, *Country Information Report No. 40/03 – Mongolia: Homosexuality in Mongolia* (sourced from DFAT advice of 28 February 2003), 4 March. (CSINET OUTER MONGOLIA – CX244772)
13. 'Parents, Families and Friends of Mongolian Lesbians and Gays' (undated), *Mongol Dyke* website <http://www.mongoldyke.org.mn/pflag.htm> – Accessed 18 July 2006.
14. Deleted.
15. Deleted.
16. Deleted.
17. Deleted.