HRC/NONE/2015/120

(Translated from Russian)

**Questionnaire**

**I. Prevention of sex discrimination in the enjoyment of the right to health and safety**

**A. Health**

**1. Does your country have regulations (in the Constitution, legislation or in other legal codes) that guarantee:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) The right to equal access for women and men to all forms of health care, at the highest available level, including access to alternative health provisions such as homeopathy, naturopathy, etc.;

(Yes) Access to sexual and reproductive health services;

(Yes) Women’s rights to make autonomous decisions regarding their sexual and reproductive lives.

**2. Are medical services related to women’s sexual and reproductive life and/or violence against women covered by universal health coverage?**

Yes (Yes) No ( )

**If yes, what kind of medical services are free of charge?**

(*Please specify*)

Family planning services.

**Are women’s rights to health, including sexual and reproductive health, autonomy and health insurance, applied also to girls under 18?**

Yes (Yes) No ( )

*If “yes”, please indicate the legislation regulating these and indicate enforcement mechanisms.*

Health Protection Act, as amended on 23 May 2015

Chapter III. Guarantees ensuring citizens’ right to health protection

Section 2. Protection of mothers and children. Family reproductive health (specify the number and title of the articles)

**3. Are there any provisions which restrict women’s access to health services? In particular which:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(No) Require the consent of a male relative/husband for a married woman’s medical examination or treatment or access to contraceptives or abortion;

(Yes) Require parental consent in case of adolescents’ access to contraceptives or abortion;

(No) Allow medical practitioners to refuse provision of a legal medical service on grounds of conscientious objection;

(Yes) Prohibit certain medical services, or require that they be authorized by a physician, even where no medical procedure is required; in particular:

(Yes) IUDs (intrauterine devices) or hormonal contraceptives;

(Yes) Emergency contraceptives, including the morning-after pill;

(No) Sterilization on request (please also include information regarding whether non-therapeutically indicated sterilization is allowed for men).

Health Protection Act, as amended on 23 May 2015

Article 20. Medical sterilization

1. Medical sterilization is carried out in order to take away a person’s ability to procreate, or as a contraceptive method. It may be performed only with the written consent of the patient, who may not be younger than 35 years of age, or who has no less than three children, or for imperative medical reasons irrespective of age or the number of children.

2. The procedure and conditions for carrying out medical sterilization shall be established by the competent body;

(Yes) Early abortion (in first trimester of pregnancy) at the pregnant woman’s request.

Health Protection Act, as amended on 23 May 2015

Article 19. Right of pregnant women to artificial interruption of pregnancy

1. For the purposes of family planning or the preservation of her health, but also in order to prevent unwanted pregnancy, a woman has the right independently to decide on the question of motherhood.

2. A pregnant woman of 18 years of age or over has the right to the artificial interruption of pregnancy until the fifth week of pregnancy.

3. Artificial interruption of pregnancy up to fifth week of pregnancy may be performed on a pregnant woman under the age of 18, subject to the written consent of her parents (or their substitutes) and a decision of a medical advisory committee.

4. Artificial interruption of pregnancy may be performed:

(1) On socially indicated grounds up to the twenty-second week of pregnancy, subject to a decision of a medical advisory committee.

(2) On medically indicated grounds up to the twenty-second week of pregnancy, subject to a decision of a medical advisory committee.

(3) On medically indicated grounds after the twenty-second week of pregnancy subject to a decision of a case management team, according to the procedure established by the competent body.

5. Artificial interruption of pregnancy shall be performed in State medical establishments.

6. The procedure and conditions for artificial interruption of pregnancy shall be laid down by the competent body.

(Yes) Medically assisted reproduction (e.g., in vitro fertilization)

Health Protection Act, as amended on 23 May 2015

Article 18. Use of assisted reproductive technologies

1. Persons with higher medical education who have undergone the prescribed special training and who work in medical establishments which have been licensed in accordance with the procedure established by the legislation of Turkmenistan may use assisted reproductive technologies. Assisted reproductive technologies shall be understood to mean methods to treat sterility, during the course of which certain or all stages of conception and the early development of embryos take place outside the maternal organism (surrogate mother), including the use of donor or cryoconserved gametes (conserved under special conditions), tissues of reproductive organs and embryos. In the event of surrogate motherhood, a contract shall be concluded between the woman carrying the foetus after the transfer of the donor embryo and the future parents (lone parent) whose gametes have been used for impregnation. The contract concerning surrogate motherhood shall be witnessed in accordance with the notarial procedure.

2. Spouses who have given their mutual written consent and a woman who at the time of treatment is not married have the right to use assisted reproductive technologies.

3. When assisted reproductive technologies are used, the selection of the future child’s sex is permitted if more than two children of the same sex have been born (are present) in the family.

4. Information about the use of assisted reproductive technologies is a medical secret. Medical workers may not use gametes, the tissues of reproductive organs or human embryos without the consent of their owners.

5. The procedure for using assisted reproductive technologies, contraindications and restrictions on their use shall be laid down by the competent body.

*If yes, please indicate the relevant legal sources.*

**4. Are the following acts criminalized?**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) Transmission of HIV or other venereal diseases by women only;

(Yes) Female genital mutilation;

(Yes) Child marriage;

(Yes) Home births with an obstetrician or midwife.

**If yes, are there any exceptions to these prohibitions and under what circumstances do exceptions apply?**

*Please give legal references and provisions.*

Criminal Code, articles 117 and 119

Article 117. Infection with a venereal disease

(1) The infection of another person with venereal disease by a person who knows that he or she carries this disease, shall be punished by a fine amounting to between 10 and 20 average monthly wages, or corrective labour for a term of up to 2 years, or deprivation of liberty for a term of up to 2 years.

(2) The same act performed in relation to two or more persons, or a minor, shall be punished by corrective labour for a term of up to 2 years, or deprivation of liberty for a term of up to 5 years.

Article 119. Infection with AIDS

(1) The witting exposure of another person to the risk of infection with AIDS shall be punished by deprivation of liberty for a term of up to 3 years.

(2) The infection of another person with AIDS by a person who knows that he or she carries the disease shall be punished by deprivation of liberty for a term of up to 5 years.

(3) The acts referred to in paragraph 2 of this article when performed in relation to two or more persons, or a minor, shall be punished by deprivation of liberty for a term of up to 8 years.

(4) The infection of another person with AIDS by a medical or pharmaceutical worker as a result of their improperly discharging their professional duties shall be punished by deprivation of liberty for a term of up to 5 years, with or without forfeiture of the right to engage in specified duties or specified activities for a term of up to 3 years.

**And who is criminally responsible?** (*Please circle the appropriate answer*)

**The woman, the doctor, other persons directly or indirectly related with the pregnancy and/or the abortion.**

*Please give legal references.*

Criminal Code, as amended on 10 May 2010

Article 20. General conditions of criminal responsibility

A natural person of sound mind who has reached the age established in this Code is liable to criminal responsibility.

Article 120. Illegal abortion

(1) The performance of an abortion by a person with the appropriate higher medical education outside a hospital or other medical establishment, or in a medical establishment, but without a legal basis, shall be punished by a fine amounting to between 10 and 30 average monthly wages, or corrective labour for a term of up to 2 years, with or without forfeiture of the right to engage in specified duties or specified activities for a term of up to 3 years.

(2) The performance of an abortion by a person without the appropriate higher medical education shall be punished by a fine amounting to between 10 and 15 average monthly wages, or corrective labour for a term of between 1 and 2 years, or deprivation of liberty for a term of up to 2 years, with or without forfeiture of the right to engage in specified duties or activities for a term of up to 3 years.

(3) The acts referred to in paragraphs (1) and (2) of this article, if carried out repeatedly, shall be punished by deprivation of liberty for a term of up to 3 years, with or without forfeiture of the right to engage in specified duties or activities for a term of up to 3 years.

(4) If, on account of negligence, the acts referred to in paragraphs (1), (2) and (3) of this article entail the death of the victim or cause serious or moderately serious damage to her health, they shall be punished by deprivation of liberty for a term of up to 5 years, with or without forfeiture of the right to engage in specified duties or activities for a term of up to 3 years.

**B. Safety**

**5. Does your country have regulations (in the constitution, legislation or in other legal codes) that guarantee:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) Special protection against gender-based violence;

(Yes) Equal access for women to criminal justice.

Criminal Code

Chapter 18. Gender-related crimes

Article 134. Rape

(1) Rape, i.e. sexual intercourse involving the use of physical violence or the threat of its use, or also where the unconscious state of the victim is exploited, shall be punished by deprivation of liberty for a term of between 3 and 10 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(2) Rape:

(a) Carried out repeatedly;

(b) Carried out by two or more persons without prior collusion, or by a group of conspirators;

(c) Combined with the torture of the victim;

(d) Causing infection of the victim with a venereal disease;

(e) Of a person known to be a minor;

shall be punished by deprivation of liberty for a term of between 5 and 15 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(3) Rape:

(a) Which, on account of negligence, entails the death of the victim, or causes serious harm to her health, or her infection with AIDS;

(b) Where the victim is known to be under the age of 14;

shall be punished by deprivation of liberty for a term of between 10 and 25 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

Article 3. Principles of criminal legislation

(1) The criminal legislation of Turkmenistan shall be based on the principles of lawfulness, the equality of citizens before the law, fault-based responsibility, justice and humanity.

(2) The criminal nature of an act, the punishment therefor and other penal consequences shall be determined by criminal law.

(3) A person shall be held criminally responsible only for those acts (omissions) entailing harmful consequences for which his or her guilt has been established.

(4) No one may be found guilty of the commission of a crime and subjected to criminal punishment unless he or she has been sentenced by a court in accordance with the law.

(5) Persons who have committed a crime shall be equal before the law and shall incur criminal responsibility regardless of their gender, race, nationality, language, material or official status, attitude to religion, beliefs or party membership.

(6) Punishment and such other criminal coercive measures as may be applicable to the perpetrator of the crime must be just, strictly in accordance with the gravity of the crime, the circumstances in which it was committed and the character of the perpetrator.

(7) Punishment and other criminal coercive measures applied to the perpetrator of the crime may not have the purpose of causing physical suffering or the diminution of human dignity.

(8) No one may be convicted twice of the same crime.

**6. Are the following acts criminalized?**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(No) Adultery;

(Yes) Prostitution;

(Yes) Sexual orientation and gender identity (homosexuality, lesbianism, transgender, etc.).

Criminal Code, articles 138-142

Article 138. The practice of prostitution

The repeated practice of prostitution in the course of a year after an administrative penalty has been imposed shall be punished by a fine amounting to 40 average monthly wages or corrective labour for a term of up to 2 years, or deprivation of liberty for a term of up to 2 years.

(If yes, who is criminally responsible — please circle the appropriate answer: **the sex worker, the procurer** and/or the customer)

Article 139. Enticement into prostitution

(1) Enticement into prostitution shall be punished by corrective labour for a term of up to 2 years or deprivation of liberty for a term of up to 2 years.

(2) This act if carried out:

(a) Repeatedly;

(b) By a group of conspirators;

(c) In relation to a minor;

(d) With the use of physical violence or the threat of its use;

(e) With the use of blackmail or deceit;

shall be punished by deprivation of liberty for a term of between 3 and 8 years.

Footnote

In articles 139, 140, 141 and 142, a repeated offence is deemed to be one committed by a person who has earlier committed any of the offences to which reference is made in those articles of this Code.

Article 140. Setting up or keeping of a brothel

(1) The setting up or keeping of a brothel shall be punished by deprivation of liberty for a term of up to 5 years, with or without the confiscation of property, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(2) These acts if committed repeatedly shall be punished by deprivation of liberty for a term of between 3 and 8 years, with or without the confiscation of property, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

Article 141. Procuring

(1) Procuring for debauchery or prostitution shall be punished by deprivation of liberty for a term of up to 5 years, with or without the confiscation of property.

(2) This act if committed repeatedly shall be punished by deprivation of liberty for a term of between 3 and 8 years, with or without the confiscation of property.

Article 142. Pimping

(1) Pimping for profit-seeking motives, that is to say employing prostitutes for the purpose of their sexual exploitation, shall be punished by deprivation of liberty for a term of between 2 and 5 years, with or without the confiscation of property.

(2) This act if committed repeatedly shall be punished by deprivation of liberty for a term of between 3 and 8 years, with or without the confiscation of property.

Article 135. Sodomy

(1) Sodomy, i.e. sexual intercourse between men, shall be punished by deprivation of liberty for a term of up to 2 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(2) Sodomy accompanied by the use of physical violence, or the threat of its use, or also where the unconscious state of the victim is exploited, shall be punished by deprivation of liberty for a term of between 3 and 6 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(3) If the act to which reference is made in paragraph (2) of this article is committed:

(a) Repeatedly;

(b) By two or more of persons without prior collusion or by a group of conspirators;

(c) In relation to a person who is known to be a minor;

(d) Causing infection of the victim with a venereal disease;

it shall be punished by deprivation of liberty for a term of 5 to 10 years, with or without the imposition of a compulsory residence order for a term of 2 to 5 years.

(4) If the acts to which reference is made in paragraphs (2) and (3) of this article:

(a) Are committed in relation to a person who is known to be under the age of 14;

(b) On account of negligence entail the death of the victim, or seriously harm his health or cause his infection with AIDS.

they shall be punished be deprivation of liberty for a term of between 10 and 20 years, with or without the imposition of a compulsory residence order for a term of between 2 and 5 years.

(Yes) Violations of modesty or indecent assault (e.g. not following dress code).

Criminal Code, article 144

Article 144. Acts of debauchery

The commission of acts of debauchery without the use of violence in relation to persons who are known to be under 16 years of age shall be punished by deprivation of liberty for a term of up to 3 years.

*Please give legal references and provisions.*

**7. Are there any provisions in criminal law that treat women and men unequally with regard to:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(No) Procedure for collecting evidence;

(No) Sentencing for the same offence, especially capital punishment, stoning, lashing, imprisonment, etc.;

(No) So-called “honour crimes” (are they tolerated in order for the perpetrator to avoid prosecution or to be less severely punished if the woman is killed?).

**II. Diagnosing and counteracting possible sex discrimination in practice in the area of health and safety**

**A. Health**

**8. Are there legal obligations to provide health education in school?**

Yes (Yes) No ( )

The subject “Foundations of safe living” has been introduced.

If yes, does it cover: (*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) Prevention of sexually transmitted diseases;

(Yes) Prevention of unwanted pregnancies;

(Yes) Promotion of a healthy lifestyle, including prevention of dietary disorders of teenage girls, including anorexia and bulimia;

(No) Psychological/psychiatric training on self-control of aggression, including sexual aggression.

*Please indicate any relevant legal regulation or programmes regarding the above.*

Education Act, as amended on 4 May 2013

Article 21. Primary education

1. The curriculum of primary education is designed to mould the pupil’s character and develop his or her individual abilities and skills through educational activities, including reading, writing and arithmetic and a grounding in theoretical reasoning, while obtaining a grasp of elementary skills of self-control, cultured behaviour and speech, basic personal hygiene and a healthy lifestyle.

2. Primary education is compulsory.

3. Instruction in accordance with the curriculum of primary education begins for children who have reached the age of 6 in the year of their admission to a general educational establishment.

4. The standard period of time for assimilating the curriculum of primary education shall be no less than four years.

5. Primary education may be received in one of the following general educational establishments: general educational school, specialized general educational school (in an appointed speciality), general educational boarding school and others.

6. Primary education is completed on transition to instruction in the curriculum of basic secondary education.

Article 22. Basic secondary education

1. The curriculum of basic secondary education is designed to form and develop the pupil’s character by inculcating in him or her moral convictions, aesthetic taste and an aspiration to a healthy lifestyle, good interpersonal skills and inter-ethnic relations, while obtaining a grasp of basic scientific knowledge and acquiring mental and physical skills, in order to reveal his or her aptitudes and interests.

The purpose of the curriculum of basic secondary education is to develop pupils’ abilities to find their place in society and to offer basic guidance in regard of an occupation.

2. Basic secondary education is compulsory.

3. Instruction in accordance with the curriculum of primary education begins for children who have primary education.

4. As a rule, the standard period of time for assimilating the curriculum of basic secondary education shall be 6 years, (or 10 years taking account of primary education).

5. Basic secondary education may be received in one of the following general educational establishments: general educational school, specialized general educational school (in an appointed speciality), general educational boarding school and others.

6. The basic curriculum of basic secondary education does not culminate in a State school-leaving diploma and the issue of an educational record.

7. The basic curriculum of basic secondary education ends with an intermediate certificate, on the basis of which a recommendation is made with regard to the appropriate area of specialization in the basic curriculum of general secondary education.

**9. Are there any statistical data disaggregated by age and/or sex (collected over the last five years) regarding:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(No) Malnutrition;

(Yes) Maternal mortality;

(Yes) Maternal morbidity, including obstetric fistula;

(Yes) Adolescent childbearing;

(No) Health consequences of physical, psychological, sexual and economical gender-based violence;

(Yes) Incidence of HIV/AIDS and sexually transmitted diseases;

(Yes) Drug abuse;

(Yes) Alcohol addiction;

(Yes) Legal abortions;

(Yes) Death resulting from legal abortions;

(Yes) Use of contraceptives, including mechanical and hormonal (including emergency contraceptives);

(No) Sterilization on request.

*If “yes”, please provide for data and sources.*

*Government statistics*

**10. Are there any statistical data and/or estimations regarding the number of reported and/or unreported cases and convictions for:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(No) Female genital mutilation;

(Yes) Illegal voluntary abortion;

(No) Forced abortions;

(No) Forced sterilizations;

(No) Malpractices in cosmetic medicine;

(No) Obstetric violence.

*If “yes”, please give further references.*

**11. Is the gender perspective included in national health-related policies:**

Yes (Yes) No ( )

*The President’s State health programme.*

*National strategy to protect the health of mothers, newborn infants and juveniles in Turkmenistan for the period 2014-2018.*

*National reproductive health strategy for the period 2011-2015.*

**In particular:** (*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) In planning the distribution of resources for health care;

(Yes) In medical research on general diseases, with proper and necessary adaptations to the different biological make-up of women and men;

(Yes) In geriatric service provision;

(Yes) In State custodial decisions to institutionalize children between 0-3 years old.

**Explanation:** **The need for a gender-based approach to public health is connected with the necessity to identify ways in which health risks, experiences, and outcomes are different for women and men and to act accordingly in all health related policies.**

**B. Safety**

**12. Are there any national policies regarding women’s safety in public spaces?**

Yes ( ) No (No)

*If “yes”, please give references.*

**13. Have there been any public opinion research polls on the fear of crime among women and men (over the last five years)?**

Yes (…) No (No)

*If “yes”, please give references and the outcomes of such research polls.*

**14. Are there any measures and programmes undertaken in order to increase women’s safety e.g. in public urban spaces, in public transportation, etc.?**

Yes (…) No (No)

*If “yes”, please give references.*

**15. Are there any statistics on crimes amounting to violence against women in public spaces and/or domestic violence?**

Yes (…) No (No)

*If “yes”, please give references.*

**16. Is the sex of the victim reflected in the police, prosecutors and courts records?**

Yes (Yes) No (…)

*If “yes”, please give references.*

**C. Health and Safety**

**17. Are there any data and/or results of research on the detrimental influence of the feeling of insecurity and unsafety on women’s mental health?**

Yes (…) No (No)

*If “yes”, please give references.*

**18. Are there specific health and safety protective measures for women, and/or with special provisions for mothers with young children, in “closed” institutions including in:**

(*Please specify in the space provided for this purpose “yes” or “no”*)

(Yes) Prisons (e.g. measures similar to the Bangkok Rules);

(No) Police detention cells;

(Yes) Psychiatric hospitals;

(…) Pre-deportation centers;

(…) Camps for displaced women and families (if relevant);

(…) Nunneries;

(…) Women’s shelters.

*If “yes”, please provide any information about the protective measures established.*

*The Penal Enforcement Code of 25 March 2011 which entered into force on 1 July 2011.*

**19. Are there specific training programmes for medical and legal professionals on the issue of gender-based discrimination in the area of health and safety?**

Yes (…) No (No)

Do they cover: (*Please specify in the space provided for this purpose “yes” or “no”*)

(No) The issues connected with specific women’s needs in area of health;

(No) Specific women’s vulnerability to be victims of gender-based violence or specific crimes, covering e.g. the issues of:

(No) The nature of gender-based violence;

(No) Its occurrences and symptoms;

(No) Methods of detection;

(No) Medical protocols;

(No) Influence of gender-based violence, in particular of sexual violence on the future behaviours of victims (post-traumatic stress symptoms etc.).

**III. Could you please indicate any legislative reform, policy or practice, that you consider “good practice” regarding health and safety for women in your country?**

*If yes, please indicate on which criteria your definition of “good practices” is based.*

The reproductive health service was set up in Turkmenistan in 2012. The Health Protection Act, as amended on 23 May 2015, contains Chapter III, Guarantees ensuring citizens’ rights to health protection, Section 2, Protection of mothers and children. Family reproductive health.

The amended version of the above-mentioned Act also includes article 18 on the use of assisted reproductive technologies.