

Universal Periodic Review Uzbekistan 2018

Human Rights and Sexual Rights of Lesbian, Gay, Bisexual, Trans people in Uzbekistan

**This report is submitted to the United Nations Human Rights Council by
Central Asian Gender and Sexuality Advocacy Network (CAGSAN)**

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Contact Information:

cacsanuz@gmail.com

10029, Yassi Street 8

Tashkent, Uzbekistan

I. Introduction

1. Since gaining independence in 1991, there have been repeated allegations of systematic unreasonable restrictions of the citizen rights, inter alia, of personal freedom and security, political participation, freedom of expression and association. Over the past 5 years, since the previous report of Uzbekistan in the UPR, the situation has not changed much, and civil activists have been persecuted even more actively. This applies especially to civil activists that are working on issues related to sexual orientation, gender identity and sexual rights.
2. In the previous two UPR cycles Uzbekistan received 5 recommendations regarding sexual orientation, gender identity, all of which were rejected: R. - Paragraph 79(d) : “Recommended the decriminalization of consensual same-sex activity between adults and the adoption of measures to promote tolerance in this regard”(Czech Republic); R. 136.49. Adopt measures with a view to combating discrimination and intolerance from which the LGBT population suffers (Argentina); R. 136.50. Eliminate from the Criminal Code the criminalization of same-sex sexual relationships and at the same time redouble efforts to end discrimination against the LGBT group (Spain); R. 136.51. Decriminalize consensual homosexual activity in compliance with its obligations under the International Covenant on Civil and Political Rights (Netherlands); R. 136.52. Revise penal legislation which criminalizes sexual orientation with a view to ensuring conformity with article 26 of the International Covenant on Civil and Political Rights (Uruguay)
3. It furthermore received 2 recommendations on sexual rights/HIV/AIDS. These recommendations were accepted: A.18. Continue to work closely with civil society to fight the propagation of HIV/AIDS, without which the 6th objective of the MDGs will be difficult to achieve (Morocco); A. 133.85. Continue to cooperate closely with civil society to prevent and combat dissemination of HIV/AIDS among the population (Cuba). The accepted recommendations on fighting HIV/AIDS in close cooperation with civil society were not followed up properly. More information can be found in chapter VII.

II. Methodology

4. This report examines key issues of human rights and sexual rights in Uzbekistan. The report was developed on the basis of publicly available materials from the Internet, official documents, the National Report of Uzbekistan for consideration at the Universal Periodic Review (UPR) in particular, a compilation prepared by the Office of the United Nations High Commissioner for Human Rights, Summary of Stakeholder Information, Report of the Working Group on the universal periodic review (all the mentioned documents are from the 16th session of the second cycle of the UPR of 2013). Also, additions on the conclusions and / or recommendations, voluntary commitments and replies presented by the State under review, the recommendations received by Uzbekistan, the assessment report of the implementation of recommendations by Uzbekistan and the report on sexual and reproductive rights prepared for the second cycle of the UPR in 2013 were included.
5. The report also uses information obtained directly from representatives of the LGBT community living in Uzbekistan, including information on human rights violations committed on the basis of sexual orientation and gender identity. The names of those who provided information as well as their exact places of residence are not disclosed for security reasons.

III. Decriminalization of homosexuality

6. Uzbekistan is one of the two Central Asian countries along with Turkmenistan which kept the article in the Criminal Code for sodomy (*bezakalbazlyk*) from the Soviet Union Code. Article 120 of the Criminal Code stipulates that “besakalbazlyk” (sodomy), satisfaction of the sexual need of a man with a man without violence, is punishable by restriction of freedom from one year to three years, or imprisonment up to three years¹. This article also applies to (lesbian, bisexual and transgender women. Uzbekistan rejected all recommendations on the decriminalization of voluntary homosexual contacts between men in 2008 and 2013².
7. In November 2014, the UN Human Rights Committee once again reminded Uzbekistan of the recommendations on the cancelation of the criminal punishment for homosexuality, as well as the adoption of measures to combat discrimination, harassment and violence against LGBT people³, to which following answers were received in January 2016: “[...]such a basis of discrimination as "sexual orientation" [...] is unacceptable for Uzbekistan.” “According to data provided by law enforcement agencies and courts, they received no complaints about discrimination and sexual harassment.” “The Republic of Uzbekistan is against the abolition of Art. 120 of the Criminal Code, because homosexual relations are one of the reasons for the spread of HIV / AIDS in the country and are contradicting the traditions of the peoples of Uzbekistan.” The statement on HIV / AIDS also contradicts the legal practice of the Committee on Human Rights, which emphasizes that "the criminalization of homosexual practices cannot be considered as a reasonable and adequate measure to achieve the goal of preventing the spread of HIV / AIDS."

Recommendation:

- a) **Decriminalize same-sex conduct by abolishing article 120 of the Criminal Code.**

IV. Freedom of expression and association

8. The Government of Uzbekistan continues to severely restrict the activities of civil society, human rights defenders, independent journalists⁴. To achieve that goal Uzbek government resorts to illegal detentions, fabricated criminal cases and imprisonment, ban on issuing an exit visa, persecution of relatives and family members of human rights defenders, etc⁵. Civil society, which is a key agent in effective work on social issues, including on issues of sexual and reproductive rights, remains weak in Uzbekistan. Due to persecution of civil activism, the overwhelming majority of citizens of Uzbekistan remains inactive.
9. One of the key challenges for lobbying for sexual and reproductive rights in Uzbekistan is the position of the Uzbek government in relation to non-governmental human rights organizations (NGOs). The law establishes unnecessarily burdensome procedures for the registration of NGOs and gives wide discrediting powers to the executive branch, which contributes to abuses from the side of authorities. There are legal restrictions on the types of groups that are allowed to organize. All organizations must be formally registered in the state institutions. In June 2015,

¹ Article of restriction of freedom of speech in Uzbekistan. { <https://365info.kz/2016/01/podotchetnoe-penie/> }

² Criminal Code of Republic in Uzbekistan. { http://fmc.uz/legisl.php?id=k_ug_21 }

³ Recommendation received by Uzbekistan in UPR session. { www.upr-info.org/database/index.php }

⁴ Article on restriction of freedom of expression in Uzbekistan. { <https://365info.kz/2016/01/podotchetnoe-penie/> }

⁵ Criminal Code of Republic of Uzbekistan. { http://fmc.uz/legisl.php?id=k_ug_21 }

Human Rights Watch report on Uzbekistan - “Prison and torture for regime critics”. { https://www.hrw.org/ru/news/2014/09/25/262985?_ga=2.124103050.1228614968.1496251110-425004545.1496251110 }

the Ministry of Justice, overseeing the registration of NGOs, issued new rules requiring NGOs to receive the approval of the Ministry to meet with non-members of the organization; receive permission from the Ministry for the dissemination of any event materials; to notify the Ministry in writing about the content and scope of the planned events. The government demanded approval of trainings and seminars of NGOs by government bodies. Existing NGOs were forced to join the national NGO association, the main function of which is to send Uzbek NGOs along the path desired by the government.

10. Uzbekistan stably takes the worst places in the Press Freedom Index⁶, compiled annually by the international organization for the protection of freedom of expression Reporters Without Borders⁷. The republic blocks free access to the Internet sources (<http://www.fergananews.com>, the Uzbek BBC Service and others) that cover the real state of affairs in the country, including issues related to sexual orientation and gender identity.
11. In 2014, the government of Uzbekistan issued a decree⁸ on video surveillance of the activities of Internet café visitors and the transfer of this information to employees of the internal affairs agencies and employees of the National Security Service. In this regard, in March 2014, activists had to close their LGBT-oriented website and forum for security purposes. Thus, LGBT activists are deprived of the opportunity to operate inside the country through the media. In addition, this situation makes members of the LGBT community to share their stories and problems exclusively through online publications and other resources of friendly organizations in other countries. In July 2015 the singer Lola Yuldasheva, the author of the song and clip, was, for some time deprived from her musical activity license⁹.

Recommendation:

- b) Ensure that human rights defenders, including groups campaigning for equality and against discrimination based on perceived sexual orientation and gender identity, are allowed to carry out their work in a secure environment, and that the rights to freedom of expression and association are respected in line with international human rights standards.**

⁶ Press Freedom Index 2016. { <http://newreporter.org/2016/04/21/vsemirnyj-indeks-svobody-pressy-2016/> }

⁷ Article on Freedom of Speech in Central Asia. { <https://iwpr.net/ru/global-voices/свобода-слова-в-центральной-азии-опоясывается> }

⁸ Article on Norma “Internet restriction”. { http://www.norma.uz/novoe_v_zakonodatelstve/povysheny_trebovaniya_k_internet-provayderam_i_obshchestvennym_punktam_polzovaniya_internetom }

⁹ Article on lesbian couple from Uzbekistan. { <http://dayagainsthomophobia.org/when-love-rises-a-family-story-in-uzbekistan/> }

V. Hate crimes

12. In Uzbekistan, LGBT people are most often subjected to beatings (19 cases out of 100: 68% of all cases- men, 32%- women); insults (14% out of 100, as a concomitant factor insults are mentioned in almost all cases); discrimination in the workplace (12% out of 100, of which 10% concern LB-women); persecution (8%). In other cases, LGBT people, faced threats, attacks, denial of available services (in two of them - denial of adequate medical care), property damage, slander and, rape attempts on the basis of their sexual orientation. Law enforcement, judicial and other authorities do not provide adequate protection to victims of violence based on sexual orientation and gender identity.

Recommendations:

- c) **Enact legislation on hate crimes based on sexual orientation or gender identity and thoroughly investigate and prosecute all acts of violence against vulnerable groups, including lesbian, gay, bisexual, transgender and intersex persons.**
- d) **Implement awareness programmes and sensitivity trainings on violence and discrimination based on sexual orientation and gender identity to law enforcement, judicial and other authorities**

VI. Discrimination against women

13. According to needs assessment research of LBQ-women in 2017 there are 47% respondents (out of 30 LBQ-women) who face violence/negative attitude on the base of their sexual orientation.
14. In 2013 an unspoken order of the Minister of Health of the Republic of Uzbekistan has appeared, according to which doctors were obliged to insert intrauterine spirals immediately after birth in the delivery room or during the "cesarean section" surgery after the extraction of the fetus and afterbirth for women who were giving birth for the first time. According to the source (a friendly doctor) in 2017, at least 18 women were subjected to forced sterilization only in the Tashkent region. Since forced sterilization affects only women, gender-based discrimination is obvious.
15. Many lesbians, bisexual and queer women are forced to hide their identity after being forced to marry, or, having refused, to remain ostracized for life as "wrong" women who have not fulfilled their vital task through marriage. According to CAGSAN¹⁰, many families force girls and women to psychiatrists for treatment, there are cases when girls are sent to study Islam. In case women do not agree to suppress themselves, families often refuse them which is confirmed by the data of the current study. Alternative report¹¹ from the LGBT organization Labrys to the UN Committee on the Elimination of Discrimination Against Women informs that three quarters of the lesbians and bisexual women interviewed were sexually abused at home or on

¹⁰ Report of Central Asian Gender and Sexuality Advocacy Network (CAGSAN) for Submission on Uzbekistan Universal Periodic Review, 2012. Available at: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/CAGSAN_UPR_UZB_S16_2013_CentralAsianGenderandaSexualityAdvocacyNetwork_E.pdf].

¹¹ Alternative report of the LGBT organization Labrys to the UN Committee on the Elimination of Discrimination against Women on the Situation of LBT Women in Uzbekistan, 2010. Available at: [http://www2.ohchr.org/english/bodies/cedaw/docs/LGBT0_E.pdf].

the street, but most often at home. Almost all mentioned sexual harassment come from men at least once in life.

16. At present, in Uzbekistan, the minimum age for marriage is 17 years for women and 18 for men¹², which contributes to discrimination against women.

Recommendations:

- e) **Take all necessary measures, including the adoption of legislation, that prohibit forced sterilization of women.**
- f) **Ratify the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).**
- g) **Equate the marriageable age for men and women to the age of adulthood (18 years).**

VII. Domestic violence

17. Often, LGBT people are subjected to domestic violence (26 cases out of 100). Women are more vulnerable: 61.5% versus 38.5% for men. Some of them are beaten by their relatives after voluntary coming-out or forced outing (7 cases, in 6 of them victims are LB-women!). Others are thrown out of the homes (4 cases) or imprisoned for house arrest (3 cases). In 3 cases, the abuse by relatives has led to suicide attempts. There are reported cases of corrective rape of lesbians by brothers attempt of murder of the gay men by fathers. Uzbek legislation does not define domestic violence. The Criminal Code does not consider domestic violence a crime and does not prohibit it.

Recommendation:

- h) **Enact legislation to prohibit domestic violence, and make attempted rape and sexual harassment punishable in the criminal code.**

VIII. HIV/AIDS

18. Currently, there is a special National Program on HIV/AIDS under the leadership of the Uzbek Ministry of Health with branches in all areas. According to official statistics, as of January 2015, 30.315 HIV-positive people¹³ were registered in Uzbekistan. Between 2012 and 2015, the prevalence of HIV infection was 13.5 cases per 100,000 people. However, there are reasons to believe that the official statistics data are greatly underestimated¹⁴.
19. HIV-related services are under the close scrutiny of the state, which is a risk factor for homosexual and bisexual men. There is discriminatory legislation; and is also a factor influencing the reliability of official statistics on HIV-positive MSM. As a result, some MSM do not have access to medical services and information on the prevention and treatment of HIV and STIs.

¹² Family Code of the Republic of Uzbekistan. {http://fmc.uz/legisl.php?id=k_sem_2}

¹³ National implementation report declaration on commitment to the case struggle against the HIV/AIDS- special session of the UN General Assembly in Uzbekistan .
{http://www.unaids.org/sites/default/files/country/documents/UZB_narrative_report_2015.pdf}

¹⁴ Article on Fergananeews "HIV Growth in Uzbekistan: Which migrants are to blame, or What are the officials silent about?". {<http://www.fergananeews.com/articles/8649>}

20. The estimated number of MSM is 3,000. In 2015, HIV services covered 1,506 MSM, which, in fact, appears to be far less than 50% of this population group. Such coverage is not sufficient for effective implementation of HIV prevention programs. In accordance with the recommendations of UNAIDS, the coverage of key populations with prevention programs should be 60%¹⁵. A younger part of MSM is often poorly informed about HIV prevention, which increases the level of risk of infection for them. Also, according to the National Report on HIV/AIDS for 2014, in the group of HIV-positive MSM, "persons younger than 25 years of age prevail." This is of particular concern, given the lack of compulsory sex education in schools, which is considered to be contrary to "national values".

Recommendation:

- i) **Guarantee safe access to HIV/AIDS prevention programs and health care services without any discrimination based on sexual orientation or gender identity.**

IX. Education on sexual and gender diversity and sexual rights

21. Sexual problems are rarely discussed in Uzbek homes or in society because of the taboo on sexuality. The following case illustrates the urgent need for sex education, which includes adequate information about the diversity of sexual orientation and gender identity. In February 2014, in one of the schools in Tashkent during a physical education lesson, in the locker room a physical education teacher found two kissing boys. The teacher led them to the principal. Under the pressure of the principal, the head teacher, the teachers, the boys confessed that they were dating. They were also asked the question if there were any others in the school. Answering the question the boys gave out another child. The next day the director invited the parents of all three boys and told about the incident in a negative tone, and also reported this case to the Khokimiyat, to the District Office. After that, every day, all lessons began with stories that homosexuality is bad and that this is a big sin. All three of the victims did not go to school, neighbors pointed at them, this topic was discussed all over the neighbourhood. After this case, the prosecutor's office checked this school on a regular basis, every day a commission came to lessons, listened to what the teachers told and how the children behaved. All this lasted no less than a month after the incident and certainly damaged the mental health of the affected teenagers and their parents.

Recommendations:

- j) **Develop and incorporate in the state curricula, education programs about sexual and gender diversity, and sexual health, without any discrimination.**
- k) **Create awareness programs on sexual orientation and gender identity with mahallas and other public associations.**

¹⁵ Assessment of the current situation: Uzbekistan. Analysis of secondary data {<http://www.harm-reduction.org/sites/default/files/inline/files/Оценка%20ситуации%20%20Узбекистан.pdf> }