



*Eurasian Coalition
on Male Health*

Human Rights Violations Based on Sexual Orientation and Gender Identity in Uzbekistan.

Shadow Report

**To the Committee against Torture for consideration at 66th session (Pre-sessional
working group – List of Issues)**

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I. Introduction

The present Report deals with the key areas of human rights violations based on sexual orientation and gender identity (SOGI) in Uzbekistan.

The present Report was developed by ECOM in collaboration with Central Asian groups and organizations working in the field of human rights, health and well-being of the most vulnerable groups of the population, including LGBTQ people, based on information received directly from representatives of the LGBTQ community of Uzbekistan, including information on human rights violations, committed on the basis of sexual orientation and gender identity. *For security purposes the names of the individuals that provided the information are not disclosed, or their precise places of residence.* The report also referred to several documented cases and reports of violations based on sexual orientation, gender identity, also information available from publicly available sources and official documents – the National Report of Uzbekistan on the Universal Periodic Review;¹ the Summary² and the Compilations³, prepared by the Office of the High Commissioner for Human Rights; Report of the Working Group on the Universal Periodic Review;⁴ also including the supplements to the conclusions and/or the recommendations, voluntary obligations and the answers provided by the State being reviewed,⁵ the recommendations received by Uzbekistan,⁶ Report on the Assessment of the Implementation of the Recommendations by Uzbekistan⁷, and the Report on Sexual and Reproductive Rights drafted for the second cycle of the UPR 2013.⁸ The present Report covers a period from 1 January 2013 to 1 December 2018.

II. Description of the problem

1. The Criminal Code of the Republic of Uzbekistan still criminalizes **consensual** sexual contact:

Article 120: Besoqolbozlik (Homosexual Intercourse or sodomy)

Besoqolbozlik, that is, voluntary sexual intercourse of two male individuals – shall be punished with imprisonment up to three years.⁹

Uzbekistan rejected the recommendations regarding decriminalisation of consensual sexual relations between adult males in 2013¹⁰ and in 2018.

The following amendment introduced to Article 120 in 2015¹¹: ‘sanctions in accordance with Article 99 and 120... ‘insert after the words ‘shall be punished’ the words with imprisonment from one to three years’, which clearly indicates that the government intends to retain the provision in the future.

Since 2011, there has been not a single representative office of international human rights organizations in the country (in the summer of 2017, Human Rights Watch was allowed to enter the country), despite the fact that Uzbekistan ratified all the major UN conventions: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Political Rights of Women, the Maternity Protection Convention, the Convention on the Rights of the Child.¹² Uzbekistan is not a member of the Human Rights Council¹³.

¹ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/106/40/PDF/G1310640.pdf?OpenElement>

² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/104/81/PDF/G1310481.pdf?OpenElement>

³ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/108/30/PDF/G1310830.pdf?OpenElement>

⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/154/81/PDF/G1315481.pdf?OpenElement>

(all the above documents refer to the 16th Session of the UPR 2013)
⁵ lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/A_HRC_24_7_Add1_Uzbekistan_R.doc

⁶ https://www.upr-info.org/database/index.php?limit=0&f_SUR=137&f_SMR=All&order&orderDir=ASC&orderP=true&f_Issue=All&searchReco&resultMax=100&response&action_type&SuRRgrp&SuROrg&SMRRgrp&SMROrg&pledges=RecoOnly

⁷ https://www.upr-info.org/sites/default/files/document/uzbekistan/session_16_-_april_2013/recommendations_and_pledges_uzbekistan_2013.pdf

⁸ https://www.upr-info.org/sites/default/files/document/uzbekistan/session_16_-_april_2013/cagsanupruzbs162013centralasiangenderandasequalityadvocacynetwork.pdf

⁹ http://fmc.uz/legisl.php?id=k_ug_21

¹⁰ https://www.upr-info.org/database/index.php?limit=0&f_SUR=137&f_SMR=All&order&orderDir=ASC&orderP=true&f_Issue=All&searchReco&resultMax=100&response&action_type&SuRRgrp&SuROrg&SMRRgrp&SMROrg&pledges=RecoOnly

¹¹ http://lex.uz/pages/getpage.aspx?lact_id=2717327&ONDATE=11.08.2015%2000#2717603

¹² http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/countries.aspx?CountryCode=UZB&Lang=EN

¹³ https://www.un.org/ru/ga/about/subsidiary/hrc/hrc_year.shtml

Despite the statement from the Committee to the effect that ‘... it is undeniable that sexual life of adults by mutual consent is protected by the concept of ‘privacy of private life’, so it follows that any laws criminalising private life constitute an outrageous infringement of Article 17 of the International Covenant on Civil and Political Rights (ICCPR). Despite the urging of the international community to rescind Article 120 of the Criminal Code of Uzbekistan, the law remains in effect and provides for criminal liability for consensual single-sex relations between males; it has been on many occasions declared that Article 120 remains in force and there are no intentions to repeal it.

A prominent businessman was arrested and charged according to Article 120 for sodomy. In conjunction with a conviction for extremism, he was sentenced to imprisonment for 15 years, of which he served for 9 months, then was pardoned and released from prison.

The episode clearly demonstrates that the individuals concerned are being persecuted according to Article 120 of the Criminal Code, in violation of the other provisions.

Because of being LGBTQ, and in particular, gay men in Uzbekistan live in constant fear to be identified as such and publicly exposed. In 2016, one homosexual couple was forced to flee Uzbekistan. Before seeking refugee status in another country, they were repeatedly harassed, attacked and arrested for a simple reason being gay. Their persecution started in May 2011, after the police noticed when they were going home together holding hands. The police then requested them to show their ID. Then they were taken to the police station, where they were told that they had also been seen kissing and that the police had more than enough information to accuse them under Article 120. While they were in the police station, the police stole their phones and valuables, repeatedly beat them, made fun of them and made them write a statement that they were caught during intercourse with each other. The police officers also threatened to inform the couple’s family and employers about their relationship and sexual orientation. After several hours of detention and insults, the men were told that if they paid the police USD 500, they would be released. Fearing for their safety, the men paid the police the required amount. On their way from the police precinct, the police told them that if they were ever seen again in the area, they would kill them.

And even after the incident the problems with the couple did not stop. In 2012, one of the men received a phone call from an individual in the Ministry of the Interior of Uzbekistan. The man was told that they had to urgently meet and talk. Later, somebody from the Ministry of the Interior appeared at the work place of the other, and he was told that the Ministry was well aware about the couple and that they were dangerous for the Uzbekistan society, and therefore they may be arrested at any time.

Moreover, even when Article 120 is not actively applied, the existence of a criminalizing law in the Criminal Code of Uzbekistan creates stigma against LGBTQ people and encourages violence and discrimination based on real or perceived sexual orientation or gender identity. When LGBTQ people are attacked or become victims of other crimes, they more often than not cannot rely on the help of the police or the judicial system, because the police are one of those who commit violations of the rights of the LGBTQ community. The police readily rely on Article 120 to extort significant amounts of money from gay and bisexual men, making them to pay large amounts of money on repeated instances.

The presence of the law further strengthens preconceived beliefs and marginalizes LGBTQ people from the society which leads by harassment of the LGBTQ individuals, and primarily by the police.

In August 2013, a man was harassed after his neighbours complained to the police that the man was gay. The man was taken to the police station for drawing up a report. At the station, the police questioned a man and said that he could easily open a case against him. Despite the fact that the police eventually released, the fact was that the man was the only defendant and the detainee by the police. The detention fact and then subsequent harassment only shows that the existence of Article 120 creates an atmosphere of discrimination for LGBTQ people. As the above-mentioned cases show, LGBTQ people, as a rule, cannot wait for protection from the police, because the police often commit violations of LGBTQ rights or are their accomplices.

2. In November 2014, the UN Human Rights Committee once again reminded Uzbekistan of recommendations to repeal criminal punishment for homosexuality, as well as the adoption of measures to combat discrimination, harassment and violence against LGBTQ people.¹⁴ In January 2016, the following replies were received¹⁵:

- ‘... ‘sexual orientation’ as the basis for discrimination’ ... is not acceptable for Uzbekistan.
- According to the data provided by law enforcement agencies and the courts, they have never received a single complaint about discrimination and sexual harassment ...
- The Republic of Uzbekistan is against the abolition of Article 120 of the Criminal Code, since homosexual relations are one of the reasons for the spread of HIV / AIDS in the country and contradict the traditions of the people of Uzbekistan.

The Committee urged the State being reviewed to establish an independent body to investigate cases of torture and ill-treatment of prisoners, to end the use of torture and bullying of prisoners and to pay compensation to the victims.

Despite recent measures to eradicate torture and abuse by individuals¹⁶, the situation in Uzbekistan is worrying that people are still victims of sexual orientation and gender identity and remain one of the most vulnerable groups.

LGBTQ detainees are often subjected to violence and torture by the police. Police officers are also engaged in the practice of capturing gay and bisexual men, and other men having sex with men (MSM) using dating websites to lure gay and bisexual men and other MSM. In September 2008, M. aged 27, met another young man on the mail.ru website. They agreed to meet next to the "Diplomat" club in Tashkent. When they met for sex, they went to the park where they were met by a group of people. Namely, two men dressed in civilian clothes approached, introduced themselves as representatives of law enforcement agencies and started to blackmail the person. They were trying to extort money, and promised in an opposite case to bring them to the police unit according to Article 120 of the Criminal Code (Homosexual Intercourse). The victim did not carry any cash with him, so he went to his house and told that now they knew where he lived. And the victim brought from home SUM 100,000 for these "law enforcements".

In July 2011, a man in Tashkent was invited to a café with another man, whom he had met on one of the dating sites. After the meeting in the café the men agreed to go to an apartment supposedly for a sexual contact. In the course of the foreplay a group of police officers broke into the room and started filming what was taking place in the room, and took the victim to the police station. The victim was held in the police custody for 3-4 hours, he was many times and heavily beaten, and was told to pay USD 4,000; the police threatened to charge him according to Article 120 of the Criminal Code.

Such actions by police officers constitute a flagrant violation of Article 7 of the CCPR and demonstrate Uzbekistan's refusal to take meaningful and positive measures to combat torture or abuse by police officers. Furthermore, the fact that the police are actively persecuting LGBTQ people adds to the concern regarding the conduct of the police and the State.

The State constantly violates the rights of individuals with regard to the duration of their detention without being presented any charges and not allowing detainees access to a lawyer. In October 2007, M., aged 27, died tragically. He was an art manager of the 'Ilchom-Vail' theatre. He was widely known as a gay person, and the police were aware of that as well. Before the incident working as an art manager of the theatre M. used to meet people online, exchange telephone numbers, but he never had a chance to meet somebody in person. After the art director's death M. received a call from the police officer; M. was told to appear for an investigation; at the police station he was charged with murder. Because his telephone number was among those in the mobile telephone of the art director, the two men (the policemen that were conducting the interrogation) were shouting and exerting psychological pressure. First of all, they sought to make the victim confess that he is gay. The victim refused to confess and claimed that he was only flirting online, and had never done anything more'.

¹⁴ <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/225/86/PDF/G1422586.pdf?OpenElement>

¹⁵ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4%2fADD.1&Lang=ru
(Clauses 25, 31, 32)

¹⁶ <http://xs.uz/ru/post/changes>

The policemen were torturing the victim claiming that he looked very much like the identikit. After the victim stated that they had never met with the dead person alive, one of the police officers hit him in the shoulder girdle area, demanding a confession that he had killed the art director. The policemen kept the victim detained from 7:00 pm until the midnight without having provided to him any food or water. After the midnight the police released the victim having fingerprinted him and obtained his promise that the victim will bring a copy of his passport to the police office on the next day. The victim did exactly as told, as he was very scared.

After this incident, the victim was called several times from the precinct seeking to accuse him of other gay-related affairs.

Another case relates to a 19-year old gay male in 2016, when the speed of internet was quite low. M. was carrying a telephone and standing near a café or a shop looking for a well-operating wi-fi. In fact he wanted to meet somebody on the internet. Then a police car pulled over. M. was not carrying his passport with him. The police officers started asking him to show his passport. M. was wearing shorts, and most probably the police thought that he was gay, because people do not go around dressed like that in Uzbekistan. So he was taken to the police precinct and was told to wait. M. was asking the police officers to be released, as he wanted to call his friends. But he was not allowed to do that. His telephone was taken away from him. When he asked the policeman for the second time, the policeman answered: 'hey you pederast, what is your problem, you cannot wait?'. What is your problem pederast? Get the hell out of here on the street'. M. asked him: 'How can you speak like this', and the answer was 'none of your problem' (in rude Russian curse words). Eventually he was released, but the experience was greatly unpleasant.

In October 2013, four gay men were arrested on suspicion in murder. The police raided their apartment without presenting any official certificate and took the men to the police station, not allowing them to inform their families that they had been arrested. While at the police precinct they were also not given a possibility to contact their family members or lawyers. In total, they spent two weeks in detention without having given any access to a lawyer, and without any court having taken any ruling in that matter. When in detention they were given only bread and water, they were brutally beaten and were forced to sign a confession that they had allegedly committed the murder. While in the police custody they were mocked at and insulted only because they were gay. The actions of the police officers in that incident constitute direct infringement of Articles 7 and 9 of the ICCPR.

Extortion from LGBTQ people

Article 120 of the Criminal Code is often used by police officers as a means to scare people and extort money from them. In an incident identical to the one described above, in spring of 2013 a man was lured to meet in the park another man whom he met on the dating site. After they have communicated just for several minutes three police officers approached the man in question and told him that they knew he was gay and they had sufficient evidence to arrest him under Article 120 of the Criminal Code. The police officers showed them a printout of their conversation with a man from a dating site and told him that if he did not pay them USD 500, they would arrest him according to Article 120. Having no alternative way out the person paid the police officers USD 500 on the next day.

Such incidents of extortion as described above evidence that such instances were not isolated instances.

According to the testimony of the victims, the police are also actively forming "hunting" groups whose task is to patrol the streets of Tashkent looking for men sitting together in cars.

Once found being together in a car such men faced a possibility of an arrest according to Article 120, unless they paid USD 200 to USD 500.

Extortion of gay people is obtaining endemic scale in Uzbekistan. This is corruption and abuse of a clear violation of Uzbekistan's obligations under the ICCPR. In addition, it is even more disturbing because it is done by the police of Uzbekistan. Uzbek LGBTQ nowhere to seek justice. Therefore, it is imperative that Uzbekistan take meaningful action to combat the continued extortion of LGBTQ people.

According to the lawyer, in the current situation in the country, not a single lawyer will undertake to voluntarily defend anyone accused under Article 120, this is obviously a hopeless case, and due to the homophobia in society, this can damage the reputation of the lawyer. The best advice in this case is to by all means avoid being charged.

From his own source, there was a story of two gay refugees D. and A. Father A., a law enforcement officer having learned about his son's homosexuality and his same-sex partnership, wanted to

imprison the son's partner D. under Article 120, and marry the son forcibly. Having learned about this from mother A., the guys were forced to leave the country and for 2-3 years they were hiding in the neighbouring country, where they managed to find housing and work. However, over time Father A. found out their location and decided to return them to Uzbekistan, using his official connections and ties in order to carry out his original intentions. As a result, D. and A. were forced to apply for a LGBTQ - refugee status, and leave to the USA having been granted the status.

Case: Gay man A., 22 years old. August, 2018.

A. was living with two of his transgender friends (MtF). They were renting an apartment. Once a group of police officers broke into the room, without any warrant. The police officers said they had information about some fight, where somebody was killed. Allegedly they wanted to check whether they were the participants of the incident. But that was not their genuine intentions. A. and the two transgender girls - all of them were arrested. He was forced to confess of being a homosexual. Police officers said: "We are not going to say anything to anybody. This is simply our job, and we just need to register gays".

But A. lied to them and said that he was not a gay man. He said that he had homosexual contact, but not same-sex intercourse. The police were trying to force him to confess, and were threatening to make anal screening to him. They forced the girlfriends of A. to confess and they confessed that they were gay. The police officers were trying to accuse A. of some other crimes. A. was subjected to a physical violence, when the police broke into the room. The girls tried to flee the room, but were brutally caught. And there were police officers waiting for them outside. Total some three police officers broke into the room. As he found out, A.'s girlfriends left their mobile number in their online dating ad, and the police called them. They were sex workers, and the police officers said they were ready to pay. The policemen recorded their names and surnames. A. assumed that the police were compiling a list of LGBTQ persons.

Even the doctor in the AIDS center, when he is told about HIV infection through a homosexual contact, forwards the information to the police. After the incident A. abandoned his residence place.

Violence and forced marriages of lesbians

During a previous periodic review in Uzbekistan, the Human Rights Committee expressed concerns about reports of violence against Uzbek women and forced marriage.

Uzbek women continue to be subjected to violence and coercion of marriage due to their sexual orientation or gender identity.

In Andijan in 2011, having discovered her sexual orientation the family forced the girl to marry a man.

Similarly, in 2014, a woman in Namangan married against her will with a man after her family discovered that she was dating a woman. Not only did these women were forced to enter a marriage they objected, but this was done on purpose, because their families did not agree with their sexual orientation or gender identity.

Article 18 (Freedom of thought, consciousness and religion), Article 24 (Equality and protection of the minors by the State)

In spite of the rights and obligations enshrined in the law in February 2014, two schoolchildren were found kissing in the dressing room of School No. 36. The school principal told the students' parents about this and the boys were forced to attend classes at the local imam, who claimed that homosexuality was wrong and was a sin. In addition, the city prosecutor came to class to make sure that the boys were present and properly instructed against homosexuality. In addition, in 2012, the female student tried to commit suicide after her teacher discovered her sexual orientation and disclosed that to her parents. The fact that young men and women in Uzbekistan are forced to attend anti-homosexual lessons from the Imam is a clear violation of Uzbekistan's obligations under the ICCPR.

While working in Uzbekistan in 2013-2016, evidence was collected on 100 cases of violation of rights and crimes committed on the basis of sexual orientation and gender identity. Gathering information about violations of gay and MSM rights is more difficult, because due to the presence of the Article of the Criminal Code they are afraid to make contact (40 cases against 58 for women and 2 transgender). From the side of internal affairs officers, the most vulnerable in the key group are gay men and other MSM¹⁷. Out of the three cases on blackmailing and extortion in two cases the perpetrators were police

¹⁷ <http://www.fergananews.com/articles/8023>

officers. In another case, MtF transgender that did not complete the feminisation process, was subjected to blackmail, beatings, and various humiliations by representatives of law enforcement agencies. These violations and criminal actions of law enforcement officers remain unpunished also because the majority of police officers do not introduce themselves, do not show their ID or draw up protocols. As of today, there is only one case known when a police officer was punished (dismissed from service) because of violation of SOGI¹⁸, and still because the case caused wide¹⁹ publicity in social networks of Uzbekistan.

As compared with previous periods (2009-2012) there are fewer cases of persecution of LB women by police officers; that is associated not so much with the change of behavior and attitudes of the police themselves, but with the more cautious behaviour of women themselves and the increase of their legal literacy due to LGBTQ activists legal workshops and wider exchange of relevant information. In addition, most members of the LGBTQ community prefer to hide their orientation or gender identity from everyone except close friends, and live double lives.

Article 21 (Right of peaceful assembly), Article 22 (Freedom of Association).

Regarding its views towards civil society and non-governmental organizations (NGOs) Uzbekistan remains a very repressive state. The situation regarding the LGBTQ groups and activities is even more repressive, and they are in most dangerous situation. Groups are forced to work in secrecy, because of fear of government persecution and revenge. NGOs and civil society organizations are tightly regulated by the government, despite the recommendation of the Human Rights Committee that Uzbekistan should undertake reforms for the purpose of creating a civil society.

III Recommendations

The Uzbekistan state should:

- repeal Article 120 of the Criminal Code of Uzbekistan, rehabilitate and compensate the persons convicted under Article 120;
- prohibit law enforcement agencies from conducting operations for detaining or holding people in detention, also make the police officers accountable for acts of extortion, torture, cruel, inhuman and degrading treatment of persons based on their sexual orientation or gender identity, especially during arrest or detention;
- ensure that any acts of violence against individuals based on their sexual orientation or gender identity, including murder, are thoroughly investigated and that perpetrators are prosecuted and qualify the crimes as “hate crimes”;
- draw up an adopt legislation to combat hate crimes against the LGBTQ community.
- ensure that state-controlled media stop conducting homophobic campaigns; the media should promote the social acceptance of all people irrespective of their sexual orientation or gender identity;
- take any necessary step to prevent any encouragement of a practice of forced marriage for all women, and especially for those women who are forced to conclude a marriage because of their sexual orientation;
- ensure that the provisions on non-discrimination enshrined in the Constitution of Uzbekistan apply to all persons, regardless of their sexual orientation or gender, as well as a system that allows victims to report discriminatory actions for investigation or redress;
- allow registration of all NGOs that meet the administrative criteria for registration and allow those who have not registered to appeal the decision to refuse registration and prove that they are relevant criteria and re-register.
- allow volunteer operation of the organisations providing assistance services for people infected with HIV and AIDS, including the representatives of LGBTQ, and proliferating information about safe sex and preventive behaviour.

¹⁸ <http://www.fergananews.com/articles/8830>

¹⁹ <https://www.youtube.com/watch?v=kuVHiirk38g>

IV Proposed questions to the state

1. What steps has the state of Uzbekistan taken to repeal Article 120 of the Uzbek Criminal Code, criminalizing same-sex relationships among consenting adults?
2. What measures does the state take to ensure that law enforcement officers do not carry deliberate acts that may result in arbitrary arrest or detention, torture, extortion, cruel, inhuman and degrading treatment of people on the basis of their sexual orientation and gender identity, and that in the case of such violations of human rights of the offender brought to justice?
3. What measures does the state take to ensure that acts of violence and discrimination on the grounds of sexual orientation and gender identity are adequately investigated, that perpetrators, whether state or non-state actors, are held accountable, and ensuring that the system provided compensation to victims of violence and discrimination?
4. What measures does the state take to prohibit forced marriage of women and what actions are being taken. Is it necessary to prevent and punish violence against lesbian women, usually perpetrated by family members?
5. What measures does the state take to ensure registration (or non-prosecution) and a possibility for non-governmental organizations to act? What are the organisations operating for the benefit of and protecting the rights of LGBTQ individuals in Uzbekistan?