

Submission on Uzbekistan
Universal Periodic Review-September 2012

This report is submitted by Central Asian Gender and Sexuality Advocacy Network (CAGSAN). The network has been formed in June 2010 to document and expose human rights violations based on gender and sexuality in Central Asia. Activists from four Central Asian countries are represented within the network.

1. This report considers key issues of sexual rights in Uzbekistan. The report is developed on the basis of, official documents and internet resources, in particular the National report of Uzbekistan for consideration on the Universal Periodic Review (UPR) in 2008,¹ a selection prepared by the United Nations High Commissioner on Human Rights,² Summary of key stakeholders information,³ the Report of the Working group under the Universal Periodic Review,⁴ also additions and conclusions and/or recommendations are included, voluntary obligations and the answers presented by the state – the object of the review,⁵ the Report of the Human Rights Council on its 10th session,⁶ recommendations received by Uzbekistan,⁷ the report about evaluation of execution of recommendations by Uzbekistan and the report about the sexual⁸ and reproductive rights prepared for the third round of UPR in December, 2008.⁹

Summary

2. The report uses information received directly from representatives of LGBT community living on the territory of Uzbekistan, including information about violations of human rights they have encountered based on their sexual orientation and gender identity. Names of people who gave the information are not revealed, just as their exact places of residence, due to safety concerns. Other NGOs noted that The government of Uzbekistan still continues applying tough restrictions to the activities of the civil society and prevent the local human rights defenders, independent journalists and defense attorneys from their activities. Range of restrictions applied by the Uzbek government include illegal detentions, trumped up criminal charges and imprisonment, stopping and closure of the NGO groups, denying exit visa, persecuting relatives and family members, etc.”.¹⁰ The present report describes the period since 2009 to the present.

Background

3. Uzbekistan ratified all basic conventions of the United Nations Organization, in particular, Convention on Elimination of all forms of Racial Discrimination, International Convention on Civil and Political Rights, Convention Against Torture, Convention on Elimination of all forms of Discrimination Against Women, International Convention on Economic, Social and Cultural rights and Convention on Rights of a Child. Uzbekistan has also ratified the UN Convention on Women’s Political Rights, Convention on Protection of Motherhood.¹¹ Uzbekistan is not a member of the Human Rights Council.¹²

¹ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/156/05/PDF/G0815605.pdf?OpenElement>
² http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/UZ/A_HRC_WG6_3_UZB_2_R.pdf
³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/159/31/PDF/G0815931.pdf?OpenElement>
⁴ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/120/09/PDF/G0912009.pdf?OpenElement>
⁵ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/120/96/PDF/G0912096.pdf?OpenElement>
⁶ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G09/174/53/PDF/G0917453.pdf?OpenElement>
⁷ www.upr-info.org/IMG/pdf/Recommendations_to_Uzbekistan_2008.pdf, http://www.upr-info.org/database/index.php?limit=0&f_SUR=188&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=100&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly
⁸ <http://followup.upr-info.org/index/country/uzbekistan>

⁹ http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/UZ/SRI_Labrys_UZB_UPR_S3_2008_TheSexualRightsInitiative_TheLGBTOrganizationLabrys_uprsubmission.pdf

¹⁰ <http://followup.upr-info.org/index/country/uzbekistan> . p 11, CIVICUS response on Recommendation n°8.

¹¹ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/156/05/PDF/G0815605.pdf?OpenElement>

enumeration of all the conventions to which Uzbekistan joined, page 14, paragraph 61.

¹² https://www.un.org/ru/ga/about/subsidiary/hrc/hrc_year.shtml

Right to freedom of association for non-governmental organizations in the area of sexual and reproductive rights.

4. The Government of Uzbekistan continues rigidly to limit activities of civil society, human rights defenders, independent journalists and lawyers. For this purpose the government of Uzbekistan uses all forms of illegal detention, forged criminal cases and imprisonments, stoppage of activities and full closure of NGOs, interdicts on exit visa delivery, prosecution of relatives and members of families of human rights defenders, etc.¹³ The civil society which is the key agent in effective work on social problems, including sexual and reproductive rights, remains weakened in Uzbekistan .

5. One of the key problems for work in the field of sexual and reproductive rights in Uzbekistan – is the Uzbek state's position concerning non-governmental organizations. In the last years many independent NGOs have been closed, the others have been compelled to join the national association of NGOs, whose basic function is steering the NGOs in directions desirable by the government.¹⁴ The law establishes unfairly burdensome procedures for registration of NGOs and gives wide discretionary credentials to executive power and promotes abuses from the authorities. For example, in an official missive the Ministry of Justice refuses registration to human rights group "Mazlum" for the following reason: «... The group cannot set the protection of human rights as its purpose, since article 43 of the Constitution fixes the role in advancement and protection of the rights and freedoms of citizens on the state...» . Or in other cases the ministry letter states that the applicant could not choose the struggle against tortures as one of the purposes because the Uzbek legislation forbids tortures and, hence, in Uzbekistan there are no tortures.¹⁵

6. The number of people living with HIV is considered forbidden in Uzbekistan because the government is very concerned by the possibility of the data on the scale of the epidemic becoming public. There is a special National program on HIV/AIDS under the Uzbek Ministry of Health with branches in all regions. But statistics on HIV/AIDS is considered confidential. In the beginning of 2009 the government of Uzbekistan has started to prosecute NGOs taking up the issue of HIV/AIDS, having accused them of propaganda of anti-social behavior and pornography. Some of such NGOs and international programs have been closed. In 2009 the Uzbek authorities have imprisoned Maxim Popov – the head of NGO "Izis" - for 7,5 years, having found him guilty of distribution of pornography and propaganda of anti-social behaviour, including propaganda of homosexuality. As a result of constant intervention of the international community, he has been released in June, 2011 under conditional punishment.

7. Recommendations.

- **To provide a favorable environment for NGOs as a whole and for NGOs, working on sexual rights, including rights of LGBT, reproductive health, human rights and HIV / AIDS - in particular, removal of all unjustified restrictions.**

- **To bring the national legislation in compliance with international standards of human rights, to provide a freedom of assembly, to provide NGOs with a right to carry out their activities freely.**

- **To make appropriate investigation of cases of closing of NGOs, punishment of those guilty for unreasonable closing and restoration of rights of NGOs, in case of illegal closing or refusal in registration.**

Discrimination on the basis of sexual orientation and gender identity

8. In 2008 Uzbekistan has rejected the recommendation about decriminalization of consensual sexual contacts between men. To this day in the Criminal code of the Republic of Uzbekistan there is the article punishing consensual sexual contact between adult men by imprisonment for up to 3 years:

¹³ <http://followup.upr-info.org/index/country/uzbekistan> . p 43, CIVICUS response on Recommendation n°90.

¹⁴ <http://followup.upr-info.org/index/country/uzbekistan> . p 9, CIVICUS response on Recommendation n°7 and °79.

¹⁵ <http://followup.upr-info.org/index/country/uzbekistan> . p 22, CIVICUS response on Recommendation n°31 and °55.

Article 120. Besakalbazlik (homosexual sexual relations between men)

Besakalbazlik, that is the satisfaction of sexual urges of a man with a man without any violence, - is punished by imprisonment up to three years.¹⁶

In March 2010 Uzbekistan was asked about the possibility of dropping the criminal punishment for homosexuality at the United Nations Human Rights Council,¹⁷ to which Uzbekistan has answered that it is not a part of its international obligations, but the Human Rights Council once again in its recommendations noted that decriminalization is a part of the country's international obligations: «The State-participant should reconsider its legislation and bring it in accordance with the article 26 of the Covenant on Civil and Political Rights. It is also necessary to provide effective protection against violence and discrimination on the basis of sexual orientation». ¹⁸ But no changes in the legislation have occurred.

9. Based on data received from own source working in law enforcement bodies, at present about 500 persons are imprisoned under 120 article in Republic. But not all of them are of homosexual or bisexual orientation. Article 120 is often used to add to sentences of political prisoners, and in particular in relation to employees of NGOs who receive grants from international organizations. If it becomes known that the person is affluent, he may be subject to extortion. Entrapment is often used for framing affluent gay men and politicians who are gay or bisexual. For law enforcement officers the use of the given article in relation to objectionable people is an easier business, than, for example, planting drugs, and more profitable. But if a man is imprisoned under this article, if he does not pay himself out, then neither he, nor his relatives will ever be washed off from this shame due to Uzbek mentality and homophobia in the society. Very often the condemned under this article are let out under amnesties if they are still alive at the time, they do not sit for a long time. But consequences for them and for their relatives are much worse than if they were imprisoned for murders. Homosexuality usually is a taboo subject in the society.¹⁹ Those condemned under article 120 are compelled to change not only their workplace, but also their residence. Some go for significantly criminal actions falsifying their passports for the purpose of leaving the country. They go for this because with a previous conviction it is forbidden to leave the country for some time, and the persecution does not stop even for one day. The life in prison for condemned for homosexual sexual relations between men is defined in advance: "The "lowered", also known as the "offended", also known as "pinchi", also "cocks", "pederasts" etc. is the lowest status in prison system, and it is not necessary to actually be homosexual, it is enough once to break an insignificant informal rule of life in in prison to be lowered to this status. The "lowered" in prison are not just condemned derelicts, they are actually slaves, who do all the dirties work, except sexual services, wash toilets, wash other's socks and underwear".²⁰ Many after group rapes die of receive wounds or commit suicide.

10. Uzbekistan stably takes the worst places in «the Index of freedom of the press»,²¹ made annually by the international organization on protection of freedom of speech «Reporters without borders». ²² In mass media, basically supervised by the state, homosexuality is covered only negatively. Public mass media use offensive expressions in relation to LGBT and encourage its disapproval by society. In «Evening Tashkent», belonging to the Tashkent city administration, on February 22nd, 2010 in article «The affair of Umida Ahmedova», or for a public insult of the people, certainly, there should be a punishment» the author, A.Mahmudov, equates homosexuality to sexual perversions,²³ in the newspaper «News of Uzbekistan» on Januar, 10th, 2011 in article «Representing a victim» about Maxim Popov's sentence, the head of NGO "Izis", the author, Sergey Djushin, is assured that it is probably to propagate homosexuality, and asserts that for similar things it is necessary to put in prison: "the Law has punished the person who undoubtedly has threatened the moral well-being of representatives of the Uzbek youth".²⁴

¹⁶ http://fmc.uz/legisl.php?id=k_ug_21

¹⁷ <http://www.ferghananews.com/news.php?id=14278&print=1>

¹⁸ <http://www.ferghananews.com/news.php?id=14278&print=1>

¹⁹ <http://russian.uzbekistan.usembassy.gov/082812ru2.html> Report on human rights in the Republic of Uzbekistan for 2011.

²⁰ <http://www.centrasia.ru/newsA.php?st=1339699020> E.Dyakonov "Petuhi" and "opushenniye" of Uzbek prisons and areas.

²¹ <http://en.rsf.org/press-freedom-index-2011-2012,1043.html>

²² http://www.uznews.net/news_single.php?lng=ru&sub=&cid=3&nid=20235

²³ <http://www.ferghana.ru/article.php?id=6480>

²⁴ <http://www.gazeta.uz/2011/01/10/mp/> - Gazeta.uz online edition published the full text of the article "Playing the Victim"

11. Existence of an article punishing for male homosexuality indirectly influences lesbian and bisexual women, as it condemns homosexuality as a whole. In conflicts with police (every fifth lesbian or bisexual woman (LB) has such experience).²⁵ Very often women hear that for them there is a criminal punishment for same-sex relationships, too. Very often the reason for detention of lesbian and bisexual women becomes the suspicion of the police that they are lesbians. Without removal of article 120 any measures on legal protection of LB women would not be effective. In 9 months of work in Uzbekistan information about 27 cases of human right violations on the basis of sexual orientation and gender identity have been documented. Representatives of LGBT community have been beaten, raped, blackmailed by representatives of law enforcement bodies, and also they were exposed to sexual harassment from law enforcement bodies. (Collecting information about infringements on the rights of gay men is difficult at present due to Article 120, which scares homosexual men from contacting the team). The majority of cases begin similarly: police address women whom they suppose to be lesbians, and start intimidating them or deceive that in Uzbekistan there is a criminal punishment for female homosexuality, or threaten to blackmail that they will inform about their homosexuality colleagues at work, in educational institution or will tell to parents. It is made for the purpose of extortion of money or for the purpose of satisfaction of sexual needs. In one case (2009) a district police officer detained a girl in a police station for 3 days, where he kept her until she ceased to resist his harassments and he had roughly raped her, after which she was allowed to go. In another case (August 2010) policemen have detained two girls and demanded to prove that they were virgins, and in case of a deceit threatened with rape, fortunately victims managed to escape. The described cases are typical, law enforcement bodies operate under one scenario. An important detail: at detention the majority of policemen do not identify themselves, do not show the certificates in which it is specified where they work and in which position, and do not make detention reports.

12. Often lesbian and bisexual women become victims of domestic violence, as well as violence from society. Girls and women are forced to be treated for homosexuality at psychologists (in Tashkent the state medical institutions refuse the request to cure homosexuality, referring to the WHO), the case is known (November 2010) when a girl was forcefully sent away to study Islam, in hope that she would cease to be homosexual. In August 2010 another girl, on an exit from gay club came across a company of homophobic young men, and was beaten up by them. Some girls after voluntary or forced coming-out are beaten by their relatives - fathers, mothers, brothers. Some of them are renounced by all their relatives - unable to bear the disapproval of their circles it is easier for them to altogether reject an LGBT person than to suffer from mockery and reproaches of neighbours, mahallas, colleagues. Some representatives of LGBT have lost their work because of sexual orientation or gender identity. The majority of representatives of LGBT community prefer to conceal their orientation or gender identity from everybody, disclosing it only to close people, and to live a double life.

14. In the Criminal code "the rape attempt" is not considered a crime, the law forbidding sexual harassment does not exist. Also in the Uzbek legislation there is no definition of violence in a family. The Criminal code does not consider domestic violence as a crime and does not forbid it.²⁶

15. Recommendations:

- **To remove article 120 of the Criminal code;**
- **To introduce into the Criminal code punishment for sexual harassment and rape attempt;**
- **To develop legislation to prevent family violence;**
- **To work out the legislation on struggle against crimes because of hatred concerning LGBT communities.**
- **To hold training seminars to representatives of law enforcement bodies and the state structures on tolerance in relation to LGBT.**
- **To forbid the propaganda of homophobia by means of state owned or controlled mass-media.**

²⁵ The poll made among 100 representatives of LGBT community in Uzbekistan, own source.

²⁶ Assessment Report of the recommendations received by Uzbekistan Universal Periodic Review in 2011 <http://followup.upr-info.org/index/country/uzbekistan>

HIV/AIDS

16. According to official statistics on 1/1/2012, there were 21542 persons in the Republic of Uzbekistan with an HIV-infection (an intensive indicator on 100 thousand of population is 72,3)²⁷ are registered. Based on data received from physician laboratory assistants working in state AIDS-centers, the government has a plan of annual registration of identified cases of infection. The number of revealed infected and not registered people is 4 times more than registered. And consequently, all these people do not receive any information how to live further, how to behave themselves, how to support health, and, most importantly, they do not receive treatment necessary for them. They are left in private with the deadly disease.

17. The struggle against AIDS in Uzbekistan is going now on a governmental level, money of donors are required go (and be supervised) through the ministries and large official establishments. Small NGOs which do significant work, such as Maxim Popov's center "Izis", have ceased to be an object of attention of international donors for whom «the project borders» have been accurately designated.²⁸ According to information received from homosexual men of Uzbekistan, from the moment of closure of NGOs working on AIDS, which secretly worked with the group of men who have sex with men (MSM), they do not have any access to preventive maintenance and / or to treatment. Due to existence of Article 120 physicians and state structures do not have an access to men who have sex with men do not trust these structures. In this connection all data in the state report on MSM cannot be authentic. As a result the most vulnerable groups in Uzbekistan - the MSM and transgender people - practically have no access to medical services and to information on preventive maintenance and treatment of HIV and STI.

18. The difficult economic situation and absence of universal sexual education promote the increase of speed of infection, especially among labor migrants. There is no trustworthy information about the quantity of citizens of Uzbekistan working abroad, and about countries in which they are employed.²⁹ According to informal data in each family from region at least one person is on earnings in other country, among them are also representatives of LGBT community. There is no uniform monitoring system over health of the labor migrants who have returned home in Uzbekistan.

19. Recommendations.

- **To expand programs of preventive maintenance of a HIV, the inclusion of LGBT in it.**
- **To reveal information and the statistical data about HIV/AIDS infection rates for maintenance of an adequate estimation of the pandemic, increase of awareness among the population and rendering of services, including preventive maintenance.**
- **To create an accurate system of monitoring and registration of Uzbek citizens employed abroad, to provide access of Uzbek labor migrants and members of their families to medical aid, including diagnostics and treatment of HIV/AIDS, sexually transmitted infections, and social, psychological and legal aid, and also to organize an effective preventive maintenance of HIV among labor migrants.**

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<http://www.unaids.org/en/dataanalysis/knownyourresponse/countryprogressreports/2012countries/Uzbekistan%202012%20Progress%20Report%20Rus.pdf>

²⁸ <http://www.fergananews.com/article.php?id=6813>

²⁹ <http://ru.hrsu.org/archives/3595>