



## Like living on a different planet:

### Gays, bisexual men and trans people vulnerable to abuse, imprisonment and discrimination in Uzbekistan



*"It's as if we lived on a different planet, where it is normal to hate, imprison, discriminate and kill people simply for who they are."*

A young gay man in Uzbekistan



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# Executive summary

***“It’s as if we lived on a different planet, where it is normal to hate, imprison, discriminate and kill people simply for who they are.”*** A young gay man in Uzbekistan (name withheld for security reasons)

***“Criminalization of sex between consenting adults of the same gender or the expression of one’s gender identity is a clear violation of human rights.”*** General Comment No. 22 (paragraph 23) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), May 2016

In Uzbekistan, the criminalization of consensual sexual relations between men, widespread societal and religious homo- and transphobia, policy influences from contemporary Russia, and anti-Western sentiment amount to a toxic mix for lesbian, gay, bisexual and trans people (LGBT).

Gays, bisexual men and trans people are vulnerable to abuse and extortion by both police and aggressive homophobes, and they are at risk of arbitrary detention, imprisonment and serious discrimination. Most often, they do not lodge complaints for fear of reprisals and of being charged under Article 120 of the Criminal Code of Uzbekistan that punishes consensual same-sex relations between men by up to three years’ imprisonment.

Many in Uzbekistan believe that homosexuality is like a contagious disease that spreads and destroys the very fabric of society if it is not prohibited and punished. When families know or suspect a relative of being gay, lesbian, bisexual or trans, they often force them to consult with medical doctors, psychiatrists, psychotherapists, mullahs or other religious figures for “treatment”. There are also many cases of families who have banished a gay son or lesbian daughter from the family home, particularly when their sexual orientation has become known outside the family.

Police officers play a key role in the persecution of homosexual and bisexual men and trans people in Uzbekistan. As in the broader society, homo- and transphobia are widespread in the police force, and some police officers actively seek out and aggressively target members of the LGBT community on a perceived mission against “sin”. Others exploit the criminalization of homosexuality and the societal shame associated with it for their own financial benefit. They threaten to “out” gay or bisexual men – to family members, neighbours, colleagues or on social media – and to charge them under Article 120, unless the victim pays a bribe.

There have also been cases where police exploited the fear of being labelled as “gay”, an accusation perceived as extremely shameful in Uzbekistani society, by extending the threat of imprisonment under Article 120 beyond gay and bisexual, to heterosexual and pious Muslim men.

Torture and ill-treatment are often used to punish and humiliate gay and bisexual men and to “persuade” the victim to pay a large bribe to regain their freedom. Anal examinations are allegedly frequently

***“Article 120 gives people the right to abuse and discriminate against persons with a non-traditional sexual orientation or gender identity with impunity. It also provides the ideal breeding ground for corruption. As long as this article exists, we will live in fear and homophobes will have power over us.”***

A young gay man in Uzbekistan (name withheld for security reasons)

conducted to detect “evidence” of homosexual intercourse, although they amount to ill-treatment and are “futile” and “unscientific”, according to the World Medical Association.

In a letter, dated 18 February 2022, the head of Dzhizzak Regional Department of the Ministry of Internal Affairs informed the region’s district and city police departments that it had opened preliminary investigations under several articles of the Criminal Code including Article 120 (“sodomy”; this article punishes consensual same-sex relations between men), Article 113 (“spreading a venereal disease or HIV infection/AIDS”) and Article 130 (“production, import, dissemination, advertising and presentation of pornographic products”). The letter instructs the local departments to track down suspects through telegram channels that function as meeting platforms for gay and bisexual men in the Dzhizzak Region, including by using GPS monitoring. The authors of this report are concerned that based on this and possibly similar instructions in other parts of the country, men having sex with men are now even more vulnerable to arbitrary detention, imprisonment, torture, ill-treatment and extortion.

An additional concern is that police officers have access to personal information of gay and bisexual men who are registered in HIV treatment centres. This violation of the right to privacy puts gay and bisexual men at risk of human rights violations at the hands of the police and presents a major obstacle for the right to access to healthcare for homo- and bisexual men.

Aggressive homophobes frequently seek out gays, bisexual men, trans people and those who promote tolerance toward the LGBT community on social media, threaten them with violence and disseminate their names, contact details and photos on internet-based messaging services with calls to “punish” and kill them. A number of aggressive homophobes maintain close relations with homophobic police officers sharing information about gays, bisexual men and trans people in order to harm them.

The Uzbekistani authorities also severely curtail the right to freedom of expression when it comes to expressions of support for lesbian, gay, bisexual and trans people and disseminating information about human rights violations affecting them. For example, blogger Miraziz Bazarov was sentenced to three year’s restricted liberty in January 2022 to punish him for peacefully exercising his right to freedom of expression including by voicing solidarity with LGBT people..

The governmental National Centre for Human Rights of Uzbekistan informed IPHR in February 2022 that 36 persons had been convicted under Article 120 of the Criminal Code in 2021, 25 of them to terms of imprisonment. This indicates an increase compared with figures published by the Ministry of Internal Affairs for the years 2016 to 2020. It is believed that there are many more cases in which law enforcement agents have threatened people with opening a case under Article 120 in order to intimidate and extort money from them.

The Uzbekistani government, the governmental National Centre for Human Rights and the Ombudsperson for Human Rights of the Oliy Majlis (Legislative Chamber of Parliament) have justified the criminalization of same-sex relations with references to religion, culture, tradition and public opinion and have stressed that decriminalization would have negative implications for society and for the country’s reputation in the Muslim world. They have failed to acknowledge or address the fact that depriving people of their liberty because of their sexual orientation is a human rights violation that unequivocally contradicts the country’s obligations under international human rights law. They have not addressed the issue that members of the LGBT community are understandably afraid to lodge complaints against torture, ill-treatment and extortion because there is no safe complaint mechanism that respects their right to privacy and guarantees that the victim will not be charged under Article 120. Nor have they tackled

the problem of HIV centres sharing the personal information of their gay and bisexual clients with the police, which is a major disincentive for these groups to seek treatment. The authorities have also failed to raise awareness about the human rights of LGBT people and react appropriately when several government officials and politicians have publicly expressed homo- and transphobic views.

International human rights law unequivocally prohibits the criminalization of same-sex relations between consenting adults and in recent years United Nations (UN) treaty bodies have called on Uzbekistan to repeal Article 120 of the Criminal Code; adopt comprehensive anti-discrimination legislation; effectively investigate allegations of torture and other forms of abuse; bring the perpetrators to justice; and combat social stigmatization, harassment, hate speech, discrimination or violence based on a person's sexual orientation or gender identity.

Uzbekistan is currently elaborating a new Criminal Code. The draft that was published in February 2021 retained criminal punishment for consensual sex between men, but as long as the new Code is not adopted there is still a window of opportunity for the Uzbekistani authorities to drop the offence from the draft text and bring Uzbekistan closer to respecting its international human rights commitments.

## Contributors, methodology and sources

This report was jointly prepared by Association for Human Rights in Central Asia (AHRCA), the Eurasian Coalition on Health, Rights, Gender and Sexual Diversity (ECOM) and International Partnership for Human Rights (IPHR). ECOM has documented over 100 cases of human rights violations affecting gay men and trans people in Uzbekistan since 2017. IPHR conducted interviews and received communications from over a dozen gay and bisexual men and two trans people and their friends or family members in Uzbekistan and in exile since 2019. AHRCA has also monitored the rights of LGBT people for several years and documented individual cases. The organizations issuing this report also viewed evidence such as court documents relating to proceedings on consensual same-sex relations between men under Article 120 as well as videos of homophobic intimidation and abuse that were disseminated via internet-based messengers and social media groups.<sup>1</sup>

At the end of December 2021, IPHR sent a list of questions to the Foreign Minister of Uzbekistan, the Head of the National Centre for Human Rights of Uzbekistan and the Ombudsperson for Human Rights and invited them to submit information and comment for inclusion in this report. IPHR received replies from the Ombudsperson's Office and from the National Centre for Human Rights in January and February 2022 respectively. The organizations issuing this report appreciate the readiness of these institutions to share information and their perspectives on issues covered in this report; references and quotes from their replies are included in the relevant chapters.

When describing individual cases of victims, the authors of this report have used pseudonyms and altered case details in order to protect individuals' safety. The only exceptions are cases that have already been published.

1 For additional case examples and further information, refer to:

*Legislative Analysis related to LGBT rights and HIV in Uzbekistan*, ECOM, 2019.

*LGBTI+ in the region of Central Asia: repressions, discrimination, exclusion*, ADC Memorial, *Kyrgyz Indigo*, Human & Art, *Kok.Team*, IG OAT Kurtuluş, with the support of IG Safe Space, *Trans\*Coalition in the Post-Soviet Spaces*, May 2020.

Uzbekistan: *Gay Men Face Abuse, Prison*, Human Rights Watch, 23 March 2021.

*Regional report on violations of the right to health of gay and other MSM and trans\* people in the EECA region for 2020*, ECOM, May 2021.

Our monitoring has focussed on the situation of gays, bisexual men and trans people because they are particularly vulnerable to serious human rights violations in Uzbekistan. Consensual same-sex relations between women are not punishable under the Criminal Code of Uzbekistan, although they are nevertheless vulnerable to extortion by police as well as human rights violations such as discrimination, torture and ill-treatment.

While not at risk of imprisonment for their sexual orientation, lesbians, and bisexual women do face an increased risk of human rights violations stemming from widespread homo- and transphobia in Uzbekistan.

## Human rights violations affecting gays, bisexual men and trans people in Uzbekistan

Gays, bisexual men and trans people are vulnerable to abuse and extortion by both police and aggressive homophobes, and are at risk of arbitrary detention, imprisonment and serious discrimination.

This chapter starts by outlining the societal context which contributes to the increased risk of gay, bisexual and trans people being subjected to human rights violations and being unable to seek redress. It moves on to describe the application and the implications of Article 120 of the Criminal Code, which punishes consensual same-sex relations between men, and gives an overview of key human rights violations gay and bisexual men and trans people are subjected to in Uzbekistan. It looks at threats coming from the police as well as from homo- and transphobic non-state actors and finally draws attention to the curtailment of the right to freedom of expression when it comes to voicing support for LGBT people or calling for the decriminalization of homosexuality in Uzbekistan.

### The societal context: homo- and transphobia

Homo- and transphobic views are widespread in Uzbekistan where many people believe that homosexuality is like a contagious disease that spreads and destroys the very fabric of society if it is not prohibited and punished. When families know or suspect a relative of being gay, lesbian or trans, they often force them to conform to societal expectations and consult with medical doctors, psychiatrists, psychotherapists, mullahs or other religious figures for “treatment”.

In many cases gay or bisexual men and trans people try to hide their sexual orientation and gender identity for fear of “tarnishing” their family’s reputation, losing contact with their loved ones and being ostracized. Many lead double lives in heterosexual relationships. One gay man, Rustam<sup>2</sup> told IPHR: “What I experience, what I feel, my pain, everything stays inside me. I cannot even tell my friends and family. Their hatred of homosexuals is endless,” he added.

“Uzbekistan’s patriarchal society regards men who have same-sex relations with such disgust that a person who is declared to be gay experiences a total lack of protection which undermines their will to live. At first gay men isolate themselves, then they try often to emigrate or become suicidal. Some

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2 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

become openly and aggressively homophobic themselves in order to divert attention from their own homosexuality”, a member of AHRCA, who lives in exile, explained.

The organizations issuing this report are aware of many cases of young gay men whose families drove them from their homes because they did not accept their sexual orientation and/or felt ashamed after neighbours found out. In many cases parents have confiscated their son’s passport in order to put pressure on him to “change” and to make it impossible for him to leave the country and live an independent life.

A member of AHRCA explained: “His relatives know that the man could live a free life abroad and many are afraid that this will become publicly known to their acquaintances in Uzbekistan. In a country where the law is less important than what people think about you, public knowledge that a family member is gay can make his relatives’ lives miserable. The family risks harming its reputation, being subjected to discrimination, and it will become more difficult to start a family of their own and to maintain social relations.”

In August 2019, **Aziz**<sup>3</sup> returned from his dance class and was forbidden by his furious father to continue dancing because, he said, “otherwise you’ll become gay”. A year later Aziz’s father discovered that he was communicating with gay men on his mobile phone, and began to insult and beat him frequently. Eventually, he threatened to kill Aziz and told him to leave the house forever. Aziz ran away from home in the middle of winter with nothing but his passport, his phone, a few clothes and some money.

In 2020, **Timur** was pushed to attempt suicide after coming out to his sister, who immediately informed the rest of the family. Timur’s family then threatened him with violence, locked him in his room, and confiscated his phone, money, and passport. Timur’s parents later took him to see a so-called “sexopathologist”, who assured him that their discussion would be completely confidential and that he knew homosexuality was not a disease to be cured. Yet, following this conversation, the doctor referred Timur’s parents to a specialist in a European country who could “cure” their son of his “disorder”. Unable to send him to Europe for this “treatment” due to COVID-19 restrictions, Timur’s family instead subjected him to a daily barrage of verbal and psychological abuse, at the same time forbidding him to speak Russian on account of their belief that access to information in Russian had contributed to him being homosexual. This constant pressure and abuse ultimately led Timur to attempt suicide by cutting his wrists. At the time of writing, Timur’s parents still intended to send him to Europe when possible.

In 2020, after a neighbour asked **Sardar’s** father “why does your son look at men on the street as if they were girls?”, his father and his two brothers beat Sardar and told him that he was not a member of their family anymore. Despite having been beaten so severely that he was hardly able to walk, he felt so humiliated that he left the family home the next day.

The authors of this report are also aware of some cases when relatives were able to overcome their homophobic views and accept the sexual orientation of their son, brother, uncle or husband.<sup>4</sup>

3 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

4 See this video of the mother of a young gay man in Uzbekistan who appeals to other parents to accept their daughter or son regardless of their sexual orientation and gender identity and describes her journey from shock and fear to love and acceptance: <https://www.youtube.com/watch?v=gHuBdiLAjjs>

# Consensual sexual relations between men: a criminal offence

***“Article 120 gives people the right to abuse and discriminate against persons with a non-traditional sexual orientation or gender identity with impunity. It also provides an ideal breeding ground for corruption. As long as this article exists, we will live in fear and homophobes will have power over us.”*** A young gay man in Uzbekistan (name withheld for security reasons)

***“Criminalization of sex between consenting adults of the same gender or the expression of one’s gender identity is a clear violation of human rights.”*** General Comment No. 22 (paragraph 23) of the United Nations Committee on Economic, Social and Cultural Rights (CESCR), May 2016

Article 120 of the Criminal Code of Uzbekistan, entitled “sodomy”, punishes consensual sexual relations between adult men by up to three years’ imprisonment. Besides Turkmenistan, Uzbekistan is *the only former Soviet republic* where consensual same-sex relations between men remain a punishable crime – a hangover from *Soviet legislation* introduced in the 1920s and 1930s.<sup>5</sup> Many other Muslim-majority countries have decriminalised homosexuality, including Uzbekistan’s neighbours – Kazakhstan, Kyrgyzstan and Tajikistan – as well as Azerbaijan and Turkey.

In its letter of January 2022 to IPHR, the Uzbekistani Ombudsman’s Office falsely claimed that many other countries in the former Soviet space also retain criminal liability for homosexuality. However, the articles the Office referred to do not relate to consensual same-sex relations between adults, but to forced sexual intercourse<sup>6</sup> or sexual relations with a child under 16.<sup>7</sup>

In Uzbekistan, Article 120 poses a constant threat to gay and bisexual men in their daily lives and makes it very risky for them to lodge complaints with the authorities about homophobic abuse and discrimination, for fear of revealing, and being subsequently prosecuted for, their sexual orientation. The organizations issuing this document are aware of many cases of gay and bisexual men whom police threatened with opening a criminal case under Article 120. Those cases that actually resulted in convictions (see statistics below) are just the tip of the iceberg.

Police are also known to exploit the fear of being labelled as “gay”, an accusation perceived as extremely shameful in Uzbekistani society, by extending the threat of imprisonment under Article 120 to heterosexual and pious Muslim men. The authors of this report are aware of such cases, but cannot publish them for fear of jeopardizing the security of the victims.

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5 Homoerotic traditions in pre-Soviet Central Asia such as that of the bachas (“dancing boys”) that appear to have been met with acceptance by society at the time are virtually absent from public discourse today. For further information, refer to *“We just want to be who we are!” LGBT people in Tajikistan: beaten, raped and exploited by police*, February 2018.

6 The Ombudsperson’s letter, for example, referred to the following articles punishing sexual practices with the use of force or coercion: Articles 121 and 123 of the Criminal Code of Kazakhstan; Articles 132 and 133 – Russian Federation; and Articles 139 and 140 – Tajikistan.

7 The Ombudsperson’s letter, for example, referred to the following articles punishing sexual intercourse and other practices a child under 16: Article 122 of the Criminal Code of Kazakhstan; Article 134 – Russian Federation; Article 141 – Tajikistan).

The authorities of Uzbekistan have only recently started providing statistical information about the number of verdicts that have been handed down under Article 120.

In February 2021, the independent Uzbekistani news outlet *Hook* *reported* that it had sent a request to the Supreme Court asking for statistics on the number of convictions under Article 120 handed down since Uzbekistan became independent. According to Hook, the Supreme Court refused to provide such information claiming that sharing it would “have an unlawful informational-psychological effect on public consciousness” and “cut society off from its historical and national customs and traditions”. In justifying its refusal the Supreme Court also referred to the *Law on Principles and Guarantees of Freedom of Information*, which sets out vaguely worded grounds for authorities to turn down requests for information when they deem the information could have a detrimental effect on society or the government.

In April 2021, official figures about the application of Article 120 were made public in Uzbekistan for the first time. The Ministry of Internal Affairs was reported as *saying* that between 2016 and 2020, a total of 44 individuals were convicted under Article 120 (six in 2016, 15 in 2017, seven in 2018, seven in 2019, nine in 2020). The Ministry added that 49 people were serving prison terms at the time it published the figures. This information was issued during a period of heightened public attention to the issue of LGBT people in Uzbekistan, both domestically and internationally. In early March 2021, international organizations had called for the abolition of Article 120; a homophobic mob attacked young people on the centre of Tashkent whom they perceived to be members or supporters of the LGBT community; and blogger Miraziz Bazarov, an outspoken advocate for LGBT rights, was subsequently attacked on the street later that month.

According to the National Centre for Human Rights’ reply to IPHR of February 2022, a total of 36 persons were convicted under Article 120 in 2021. Sixteen of them were sentenced to terms of imprisonment, i.e. a higher number than the figures published by the Ministry of Internal Affairs since 2016. According to the National Centre for Human Rights, sixteen persons were serving their sentences in general prison facilities, five in high security prison (having been convicted under several articles of the Criminal Code); and four in prison colonies.

The letter further stated that another 11 persons who had been convicted under Article 120 were registered with the Probation Service of the Ministry of Internal Affairs and were subjected to different kinds of restrictions of liberty including not leaving the house at night (11 cases); not consuming alcohol (in six cases); not talking to certain people (eight cases); not using communication devices, including the internet (two cases); and not changing their place of resident (two cases).

## **Arbitrary detention, torture and ill-treatment, extortion and public “outings” by police**

Police officers play a key role in the persecution of homosexual and bisexual men and trans people in Uzbekistan. They detain those whom they suspect of violating Article 120, send them for anal examinations, which are in themselves recognised as a form of ill-treatment, and are frequently implicated in torturing and ill-treating their victims.

As in the broader society, homo- and transphobic views are widespread within the police force, and there are officers who actively seek out and aggressively target LGBT people on a perceived mission against “sin”. Others exploit the criminalization of homosexuality and the shame that is associated with

homosexual behaviour in society for their own financial benefit. They threaten to “out” gay or bisexual men – to family members, neighbours, colleagues or on social media – and to charge them with Article 120, unless the victim pays a bribe. Torture and ill-treatment are often used to punish and humiliate gay and bisexual men and to increase the victim’s readiness to pay a bribe in order to regain their freedom.

Naturally, under these circumstances, men having sex with men are afraid of being tracked down by police. A photo that appeared in a telegram group in February 2022 sent shock waves through the gay and bisexual community. The photo depicts a letter on official letterhead, signed by the head of the Dzhizzak Regional Department of the Ministry of Internal Affairs, dated 18 February 2022. The letter, which appears to be genuine, informs district and city police departments that the Dzhizzak Regional Department has opened preliminary investigations into a number of crimes including consensual same-sex relations between men (“sodomy”, Article 120), “spreading a venereal disease or HIV infection/AIDS” (Article 113) and “production, import, dissemination, advertising and presentation of pornographic products” (Article 130) targeting people who “conduct propaganda for homosexuality” in two named telegram groups that functioned as meeting platforms for gay and bisexual men in the Dzhizzak region. According to the letter, “active participants of the group, their nicknames and private details of those who have AIDS, must be provided to the Department tasked with confidential cases within ten days” and “their whereabouts have to be monitored by way of GPS.”

## TORTURE AND ILL-TREATMENT IN POLICE DETENTION

The authors of this report are aware of many cases when gay or bisexual men or trans persons were subjected to torture or ill-treatment in police detention in recent years.

For example, **Ravshan**<sup>8</sup>, a young bisexual man, was detained in July 2018 after police burst into his apartment and filmed him and his partner having sex. The officers took Ravshan to the local police station, where “they suspended me from the ceiling using handcuffs, beat me severely, and tried to rape me with a truncheon.” After that, they laid him on the floor and an officer jumped up and down on his stomach.

Ravshan recalls: “I have never been beaten and intimidated like that in my entire life. I wanted to die to free myself from this torture”. When police threatened to imprison him under Article 120 unless he gave them 2000 USD, he paid up and was released. He later realised that his partner had cooperated with the police and set him up, possibly in order to avoid being himself charged and jailed.

In 2021, **Kurbon** and two of his friends were detained by police on suspicion of being gay as they were chatting in a café. Kurbon later understood that another friend had tipped off the police and suggested that he may have been under pressure from police himself. According to Kurbon, police beat, kicked and verbally abused the young men at the police station and threatened to open a criminal case against them. Kurbon was able to delete contacts and other incriminating evidence before police confiscated his phone. After spending the whole night in detention, police told him that they would open a case against him and tell his wife about his sexual orientation unless he gave them 500 USD. Afraid of the consequences, Kurbon agreed and paid the money with borrowed money once released. The police officer promised not to pursue the case. The fate of the other two men is unknown. Kurbon reported: “You don’t know where to complain, where to turn, I’m still angry when I think of what they did to us. I try not to dwell on it, but I will never forget that traumatic experience.”

8 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

In January 2021, **Jasurbek**, a young gay man, was convicted of running a brothel under Article 131 of the Criminal Code. His friends insist that police fabricated the charge against him in retaliation for his frequent attempts to help other LGBT people who got in trouble with the police. Jasurbek alleges that police officers ill-treated him in order to force him to incriminate himself by beating him, pushing his face against the wall while roughly holding his neck and that they insulted and humiliated him because of his sexual orientation saying, for example “you’re not a human being, people like you should be locked up in a prison and destroyed”.

## ANAL EXAMINATIONS REPORTEDLY ROUTINELY CONDUCTED

In Uzbekistan, law enforcement officers often order anal examinations in order to obtain “evidence” for prosecutions for same-sex conduct under Article 120 of the Criminal Code. The World Medical Association, composed of physicians around the world who work for the highest possible standards of ethical behaviour and care, adopted a resolution condemning the use of forced anal exams to substantiate same-sex sexual activity as “unscientific”, “futile” and “amounting to a form of torture or cruel, inhuman and degrading treatment.”<sup>9</sup>

In its December 2021 letter, IPHR asked Akmal Saidov, the head of the governmental National Centre for Human Rights, whether Uzbekistan was planning to abolish anal exams citing the World Medical Association’s conclusions. In its reply of February 2022, the National Centre for Human Rights failed to address these concerns, but stated that in Uzbekistan “in the conclusions of a forensic medical examination there is only a reference to a possible sexual act and the word ‘sodomy’ is not mentioned. That question falls to courts to decide.”

International human rights groups and AHRCA documented nine cases where forced anal exams were carried out in Uzbekistan between 2017 and 2021.<sup>10</sup> Radio Free Europe/Radio Liberty reported in August 2021 that two Uzbekistani Interior Ministry officials, who spoke to them on condition of anonymity, said that anal exams of male detainees are among the most common forms of abuse in the country’s detention centers and prisons.<sup>11</sup>

According to Human Rights Watch, doctors subjected two men to forced anal exams in early 2021 under orders from Internal Affairs officials. A court in Tashkent sentenced them to two years of house arrest, in part on the basis of medical reports purporting to find evidence of same-sex conduct. The men, who had lived together before the arrest, were ordered to serve their sentences in cities 500 kilometers apart and have been prohibited from using the internet.<sup>12</sup>

9 *WMA Resolution on Prohibition of Forced Anal Examinations to Substantiate Same-Sex Sexual Activity*, Adopted by the 68th General Assembly, Chicago, United States, October 2017

10 Uzbekistan: *Forced Anal Testing in Homosexuality Prosecutions*, 5 August 2021 and *Прокуратура закрыла уголовное дело, возбужденное против блогера из Андижана за защиту подростков от «гей-скандала»*, 4 December 2020.

11 *More Warnings Of Abuse After Rights Groups Urge End To Uzbek Use Of Rectal Exams*, 10 August 2021.

12 Uzbekistan: *Forced Anal Testing in Homosexuality Prosecutions*, 5 August 2021.

Another example is that of **Oybek**<sup>13</sup>, who was subjected to an anal examination in a medical institute in Tashkent in the presence of law enforcement officers a few years ago. He was subsequently convicted under Article 120 of the Criminal Code and served several years in prison. Further details of his case are known to IPHR but withheld to protect his identity.

Police often use threats of conducting an anal examination in order to scare people into paying bribes to avoid the opening of a criminal case for same-sex intercourse.

For example, **Furkat** informed IPHR in 2020 that two police officers came to his work place and took him to a police station in Tashkent, accusing him of stealing jewellery from his partner. His partner was also at the police station and the two agreed not to tell the police that they are gay. Police officers took them to different offices for questioning. In the course of the questioning officers repeatedly asked Furkat if he was gay, but he denied it. Then police threatened to “conduct a medical examination to prove that he had homosexual intercourse”. Furkat recalled: “I got scared. If they proved my guilt in a medical examination then they would put me in prison for sure and my mother would disown me. So, I had to confess.” Eventually, police did not open a criminal case against Furkat after the young man agreed to give the police the money he had received from selling the stolen piece of jewellery. Reportedly, the police subsequently put pressure on Furkat’s partner to confirm in writing that Furkat had returned the money to him, although the police kept it.

## **TORTURE, ILL-TREATMENT AND SEXUAL ABUSE IN PRISON**

Those who are sentenced to imprisonment under Article 120 and other prisoners perceived to be gay or transgender are at a high risk of physical, sexual and other types of abuse by officials and fellow prisoners. They occupy the lowest status in the informal, but strictly imposed, hierarchy of prisoners, and are regularly used as “slaves” by guards and other inmates.

**Shavkat**<sup>14</sup> was sentenced to several years’ imprisonment under Article 120 and other articles of the Criminal Code. After serving a part of his sentence he was conditionally released. He told IPHR in 2020 that, during pre-trial detention, he was regularly subjected to physical abuse by other detainees, while the prison guards looked the other way. He recalls that the days spent in pre-trial detention “were the most awful and disgusting of my life”. Likewise, when he first arrived at the penal colony, officers beat him and attempted to rape him with a truncheon, and he was treated with hatred and contempt by fellow inmates and prison guards. He told IPHR that “Prisoners are divided in two categories. LGBT people and the others. The others hate and oppress us.”

## **EXTORTION AND “OUTINGS”**

Research conducted by the authors of this report indicates that police often use threats of opening a case under Article 120 in order to extort money from gay and bisexual men, in addition to threats of disclosing their sexual orientation to family members, neighbours, colleagues or on social media. In the cases documented by the authors of this report, police did not press charges when victims paid the

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14 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

requested bribe but victims often remained scared for years - not knowing whether police will keep their promise.

In April 2021, **Amir**<sup>15</sup> was approached by two men while at work, one of them introducing himself as a senior officer at the local Department of Internal Affairs and telling Amir he should come to the station to answer some questions, giving no indication of what he wanted to know. At the police station, the officer alluded to an alleged correspondence between the victim and another young man, which included intimate photographs and communications of a sexual nature, and pressured Amir to confess to “sodomy”. Amir highlighting inconsistencies in these accusations, refused to admit guilt.

Then the police officer changed tack and instead threatened to out the victim to his colleagues, warning that not only would the man’s life be destroyed but that the shame would fall on his whole family, including his wife and children, and that whether or not the claims were true was irrelevant. In the end, Amir succumbed to the intimidation and confessed to having had same-sex relations. At this point, the inspector threatened to charge him with Article 120 of the Criminal Code.

Amir was eventually released, but was summoned to the police station again a few days later, where he was shown a preliminary indictment. The inspector then indicated that a bribe of 5000 USD could make the case go away, a proposal to which Amir agreed. He was given a month to pay and told that if he failed to pay on time his family would be informed and he would be charged. Amir found the money to pay the bribe and the case has so far not been initiated.

In 2020, **Umid** was taking a walk with his boyfriend in a park, when the pair shared a kiss overlooking a pond. Unbeknownst to the couple, a surveillance camera in the area captured the moment and a local security guard alerted the district police. Shortly afterwards, police took the couple to a police station for questioning, whereby police unlawfully seized one of the men’s phones and issued veiled threats to force him to reveal its password. On the phone, police found photos and video showing the couple kissing and began to threaten them with being charged with Article 120 of the Criminal Code. After police called their parents to the police station, one of their fathers was forced to pay a bribe, after which they were released.

The organizations jointly issuing this report have documented many cases where police officers actively contacted gay and bisexual men through social media posing as gay men to entrap their victims or entice and coerce them to collaborate with the police. Officers typically threatened that they would open a criminal case under Article 120 and that family members would be informed of their sexual orientation if they did not cooperate.

**Kudrat**<sup>16</sup> told IPHR in December 2020 that he met a man on social media, who asked him to meet for a walk in the centre of town. As soon as they saw each other, the man reportedly showed him his law enforcement ID, took Kudrat’s mobile phone and began searching it for evidence of his sexual orientation. Although the policeman found nothing, he reportedly

15 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

16 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

threatened to open a criminal case against Kudrat under Article 120 unless he gave him 300 USD. Kudrat gave him the money, but the man regularly returned to extract further payments, exploiting Kudrat's fear of being outed.

Another gay man, **Sohail**, arranged to visit a man he had met online in 2020. Having arrived at the man's apartment, Sohail initiated a sexual encounter with his new acquaintance. Once Sohail had undressed, however, the other man excused himself – supposedly to go to the bathroom – and closed the door of the room behind him. Shortly thereafter, a group of unknown men burst into the apartment with a camera; they filmed everything, shouted at Sohail, accusing him of engaging in prostitution and behaving aggressively. They then bundled him into a police car and drove him to a police station, where he was interrogated. In the course of the interrogation, Sohail was accused of violating Article 120 of the Criminal Code and threatened with being outed, among other things. Ultimately, the interrogating officer suggested that this “problem” could go away if Sohail were to pay a bribe.

The authors of this report are also aware of cases when police threatened to charge heterosexual men under Article 120, subsequently forcing them to hand over large sums of money or property or to “confess” to serious crimes including “terrorism” or “attempting to overthrow the constitutional order” in order to avoid the public shame and other humiliating and painful consequences of being convicted for homosexual conduct.

There have also been cases when video footage of detained gay or bisexual men and trans people was disseminated on telegram or other distribution channels. Police who produced or shared the videos violated the detainees' right to privacy thus putting them at risk of homo- and transphobic reprisals.

For example, police detained two young gay men in the Mirzo Ulugbek District of Tashkent and filmed them as they were being aggressively questioned by police. Videos of the interrogations were disseminated on the homophobic telegram channel <https://t.me/TYUZBEK> on 1 February 2022. In the videos the men's faces are recognizable as they are only minimally blurred and their names and other personal details are disclosed. The young men's current whereabouts and whether charges have been brought against them is not known.

In another case, on 26 December 2021, the news channel UZREPORT TV reported that two trans people were stopped by traffic police in Tashkent and subsequently detained. In the course of the report, which featured the two detaining police officers and the trans people, the trans people's names were disclosed and one of the officers stated that “the citizen who introduced herself as a woman turned out to be a man. This is why we are now taking measures to address the situation, administrative records will be drawn up, an investigation is being conducted.”

On 28 June 2021, a video was disseminated on a homophobic *telegram channel* which counts numerous law enforcement officers among its 300 000 subscribers. In the video, police from Samarkand Region detained a man wearing female clothes on the street. Police officers insulted the person and took them to the local police station. In the police station the person who recorded the video, presumably a police officer, asked another officer if there was any article in the Criminal Code against “such people”. The detainee's fate, current whereabouts and state of health are unknown.

## HIV centres offer free ARV treatment, but no confidentiality

***“I witnessed several times how medical specialists interrogated young men about their intimate partners and put pressure on them to bring their partners to the HIV centre. I understand that they do this to fight the spread of HIV infection, but because HIV centres do not treat the information strictly confidentially, they put these men at risk of criminal prosecution and of being disowned by their relatives.”*** Outreach worker who helps HIV positive people to access treatment

According to the National Centre for Human Rights’ reply to IPHR in February 2022, Uzbekistan has a total of 45 000 people with HIV/AIDS, although experts have raised concern about the reliability of HIV statistics in Central Asia.<sup>17</sup> According to USAID, Central Asia is one of the few regions in the world where the HIV epidemic continues to grow.<sup>18</sup> Men having sex with men are among the high risk groups although HIV has also been spread through blood transfusions, including through the use of untested blood from patients’ relatives or friends, and reuse of needles and syringes.<sup>19</sup>

In order to control the HIV epidemic, governments should ensure that people belonging to high-risk groups have safe and easy access to testing and treatment as an effective means of prevention of transmission to others. The World Health Organization (WHO) recommends that HIV testing services should follow the five principles of “consent, confidentiality, counselling, correct results and connection with treatment and other services.”

Anand Grover, then Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, pointed out in 2010 that “public health policies regarding the HIV/AIDS epidemic clearly demonstrate that decriminalization of homosexuality, coupled with efforts to fight against LGBT discrimination, constitute a substantial tool to halt the spread of the virus.”<sup>20</sup>

The Uzbekistani authorities hold a different view. “The decriminalization of homosexuality has not been considered owing to the pressing need to combat the spread of HIV”,<sup>21</sup> was the blunt answer that the government of Uzbekistan gave to the United Nations (UN) Committee on Economic, Social and Cultural Rights’ (CESCR) in September 2020 when asked to describe steps taken to combat discrimination against lesbian, gay, bisexual, transgender and intersex persons regarding access to health care, employment, housing and education, and to explain which steps, if any, had been taken to decriminalize homosexuality.<sup>22</sup>

17 See, for example: *HIV Epidemic Control in Central Asia Still Has a Long Way to Go*, 2 December 2019.

18 USAID: *HIV Central Asia* (site last updated: 20 January 2022).

19 For example, refer to the Uzbekistan country page of the HIV Justice Network (<https://www.hivjustice.net/country/uz/>) and Claire Thorne, Nina Ferencic et al: Central Asia: hotspot in the worldwide HIV epidemic, *The Lancet*, Vol. 10, issue 7, 1 July 2010 ([https://doi.org/10.1016/S1473-3099\(10\)70118-3](https://doi.org/10.1016/S1473-3099(10)70118-3))

20 Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (A/HRC/14/20/Add.1), para. 14 (unofficial translation). The quoted statement was made in relation to a proposed law to criminalize sexual acts between persons of the same sex in Burundi.

21 *Government Reply to the List of Issues, Committee on Economic, Social and Cultural Rights*, 8 September 2020.

22 Committee on Economic, Social and Cultural Rights, *List of issues in relation to the third periodic report of Uzbekistan*, 6 April 2020

In Uzbekistan gay men have good reasons to be afraid of approaching HIV centres for testing and treatment. Anti-retroviral (ARV) treatment is only administered after full registration of a person's passport and other personal details in one of the 15 HIV centres operated under the Ministry of Health. There are strong indications that HIV centres routinely share information about HIV positive gay men with the police, possibly based on an internal, non-public, official regulation.

However, such cooperation between medical professionals and HIV centres and law enforcement agencies constitutes a clear violation of Article 17 of the International Covenant on Civil and Political Rights (ICCPR), which guarantees the right to privacy. The right to privacy also "encompasses obligations to respect physical privacy, including the obligation to seek informed consent to HIV testing and privacy of information, including the need to respect confidentiality of all information relating to a person's HIV status."<sup>23</sup> As long as same-sex intercourse is a criminal offence in Uzbekistan, gay men will think twice before turning to HIV centres.

The authors of this report are aware of cases when staff of an HIV centre told HIV positive people that unless they swiftly returned for registration, the staff would send information about them to the police, thus putting them at risk of being charged with deliberately spreading HIV (Article 113 of the Criminal Code) and/or "sodomy" under Article 120. Sometimes HIV centre staff also threaten homosexual men with informing relatives about their HIV status and sexual orientation.

**Akmal**<sup>24</sup>, a gay man from Eastern Uzbekistan tested positive at an HIV centre in early 2022. He fell into a depression and turned down all invitations from the local HIV centre for consultation and treatment. Several months later the police started calling him on his phone and inquiring about him with officials of the local Mahalla (neighbourhood) Committee to urge him to go to the HIV centre. When Akmal eventually went to the centre, staff questioned him about his sexual orientation, his sex life and took his mobile phone to take down information about his contacts.

An outreach worker who works with an HIV centre described to IPHR how, when **Ivan** did an HIV test, staff at the centre asked him for his phone number. Two days later they rang and told him he was HIV positive. They then threatened to send the police after him and inform his family that he is gay if he did not go to the centre immediately to give them his full contact information.

Following registration at the HIV centre, HIV positive persons are seen by medical specialists such as epidemiologists, infectiologists, virologists and psychologists who try to ascertain the stage of the HIV infection, how the person has been infected, and provide information about treatment options. When they conclude that a man has same-sex relations the HIV centre adds the code no. 103, which stands for "homosexuals and bisexuals", to his epidemiological record that is kept by the centre. HIV centres use 22 different codes referring to different HIV high risk groups.<sup>25</sup>

23 International Guidelines on HIV/AIDS and Human Rights, para. 119: <https://www.ohchr.org/documents/publications/hivaidsguidelinesen.pdf>

24 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

25 For detailed information about the codes, refer to Decree No. 123 of the Ministry of Health, 25 March 2015, entitled "On prophylactic measures for HIV-infection and further improvements regarding the organization of medical aid": <https://jizzax-aids.uz/hujjatlar/hujjat-5.pdf> (p. 80).

When **Rasul's** second test also came out positive, he was assigned to an infectious disease specialist and offered the support of a psychologist, although the latter did not attend any of the appointments Rasul tried to make. At his appointment with the infection disease specialist, Rasul was questioned about his sexual orientation. Though he answered that he was heterosexual, the specialist pressed further, questioning why he was unmarried, asserting that in Uzbekistan HIV is only spread by homosexuals of a certain age, and claiming on that basis that he must be a homosexual and that such a "disorder" needed to be treated. This dispute culminated in the specialist threatening to disclose Rasul's diagnosis to his family and put him on record as a homosexual. At present, Rasul is receiving ARV treatment, but has been forced to continue seeing the same specialist as they are assigned to his local area.

The authors of this report received confirmation from employees at HIV centres and two local police officers that HIV centres and police routinely share information about men having sex with men. Two local policemen told AHRCA that HIV centres pass personal details of gay men to agencies of the Ministry of Internal Affairs who forward them to local police officers tasked with preventing the spread of HIV.

A social worker from an HIV centre reported: "Police officers often come and ask for information about gays, about those registered with code 103. They want to open criminal cases under Article 120, that's what they tell us." This is in line with what many social workers have told the authors of this report.

## Threatened and abused by non-state actors

Aggressive homophobes frequently seek out gay and bisexual men, trans people and those who promote tolerance toward LGBT people on social media, threaten them with violence and disseminate their names, contact details and photos on internet-based messaging services with calls to "punish" and kill them.

A number of aggressive homophobes maintain close relations with homophobic police officers sharing information about gay and bisexual men and trans people in order to harm them.

Many new homophobic messaging services have appeared in recent years. A homophobic telegram channel that appeared in June 2020 circulated over 400 photos and personal details in its first two weeks of operation. In August 2020 another similar homophobic telegram channel was launched ([https://t.me/gey\\_yulduzlari\\_uz](https://t.me/gey_yulduzlari_uz)). There were allegations that some of the people whose photos and details were disseminated on this channel were actually heterosexuals and targeted for personal revenge to ruin their reputation. Telegram closed down the channel in October 2021 after receiving numerous complaints from internet users about spam and the channel's pornographic content.

The authors of this report are aware of dozens of cases in recent years when aggressive homophobes subjected individuals to threats of violence, physical abuse and outings on social media.<sup>26</sup> Videos of beatings have been disseminated on internet-based messengers and there are credible reports that gay men have been murdered or severely injured by homophobic mobs in recent years.<sup>27</sup>

When in danger, these people cannot rely on the police for protection.

26 Some cases have been published, for example: <https://rus.ozodlik.org/a/29890288.html>

27 See, for example: <https://rus.ozodlik.org/a/28764955.html>

In 2020, **Komil**<sup>28</sup>, a young gay man, began to receive online death threats. The callers managed to work out his identity and, one day, Komil noticed that he was being followed on his way home from work. In September, someone appeared at his house and knocked at his bedroom window in the middle of the night. When he heard the sound of a gun being loaded, Komil screamed at the top of his lungs and the person disappeared. The following day, he received another message to his phone: “We will destroy you and feed your blood to the dogs!”

In 2021, **Sanzhar** got to know a man online who said he was interested in a long-term relationship. The two met, but when they were on their way to the other man’s flat, several men reportedly approached them and attacked Sanzhar, beating and kicking him severely, threatening to kill him. One man reportedly pressed on his throat so that Sanzhar felt as if he was about to suffocate. They stole his phone and money.

Like many others who have been targeted by violent homophobes, Komil and Sanzhar did not report the incidents to the police. Sanzhar explained: “I was afraid to seek legal aid. Even supposing the perpetrators were found and punished, I could also be punished for my sexual orientation. I was afraid they would conduct an examination and find signs of sexual intercourse.”

The authors of this report have documented some cases where victims of physical attacks by non-state actors turned to the police for help. In none of these cases were effective investigations conducted.

For example, in 2020 **Naim**, a young gay man, turned to the police after he was assaulted by a violent homophobic group who had lured him onto a fake date. At the police station, an officer flatly refused to investigate the crime and deterred Naim from pursuing his complaints further, highlighting that homosexuality is a criminal offence in Uzbekistan and suggesting that Naim would get himself in far worse trouble if he insisted on pursuing the case. Over the course of half an hour, the officer belittled Naim, claiming that “Allah would forgive” the actions of Naim’s attackers and so would the police, and stating that homosexuals have no right to justice or police protection. Ultimately, Naim agreed not to file a complaint, a decision which the officer praised, concluding that if Naim wanted to be gay then he could either go to Europe or he could stay in Uzbekistan and be killed or thrown in jail.

The Ombudsman’s Office informed IPHR in January 2022 that law enforcement agencies did not investigate any cases involving torture, ill-treatment, extortion or public statements by homophobes against gays, bisexual men or trans people in 2021. The governmental National Centre for Human Rights added that the Ministry of Internal Affairs had not received any statements or complaints about human rights violations affecting LGBT people.

## Freedom of expression curtailed

The Uzbekistani authorities severely curtail the right to freedom of expression when it comes to people speaking out in support of lesbian, gay, bisexual and trans people and sharing information about human rights violations affecting them.

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28 This and all other names of gay and bisexual men and trans people mentioned in this report are pseudonyms to protect their safety.

In August 2019, shortly after **Shokhrukh Salimov**, an activist from Uzbekistan living in exile, posted a video message online calling on President Shavkat Mirziyoyev to decriminalize consensual sexual relations between men, law enforcement officers visited Salimov's relatives in Uzbekistan to put pressure on Salimov and discourage further activism.

Blogger **Miraziz Bazarov**, an outspoken government critic and supporter of decriminalizing homosexuality in Uzbekistan, was physically attacked by masked men on 28 March 2021 as he was walking to his girlfriend's house in Tashkent, and had to be hospitalized. An investigation was opened but not conducted effectively. None of the attackers has been brought to justice. Bazarov has effectively been deprived of liberty since he was placed in the Republican Clinical Hospital No.1 in Tashkent, where he was guarded around the clock by law enforcement officials. After Bazarov was discharged from hospital on 29 April 2021, a local court immediately sanctioned his house arrest and placed strict limitations on his contact with the outside world. Bazarov was charged with slander in connection with a social media post critical of a school in Tashkent and his claim that three homophobic bloggers, whom he named in social media posts, cooperated with the Uzbekistani secret service and, referring to Islamic symbols in their blogs, accused them of association with the radical Islamic State of Iraq and Syria (ISIS).

On 21 January 2022, Mirabad District Court in Tashkent sentenced Miraziz Bazarov to three years' restricted liberty for "slander for selfish or other base motives" (Article 139, part 3g).

According to Bazarov's lawyer Sergey Mayorov, the conditions of Bazarov's sentence include the prohibition to leave his house between 8:00 p.m. and the early morning, to work in his profession as a psychologist and to use the internet.<sup>29</sup> In March 2022, it was reported that the Uzbekistani authorities have not given Bazarov his passport back, thus preventing him from leaving the country.

The authors of this submission believe that the criminal charges of slander were brought to punish Miraziz Bazarov for his peaceful criticism of government policies including the criminalization of homosexuality.<sup>30</sup>

## Government reluctance to address human rights violations

***"It's wrong to use religion as a cover for violence and corruption. Article 120 gives people the right to abuse and discriminate against LGBT people and it facilitates corruption because it provides an easy and comfortable way to extort money from them."*** A young gay man from Uzbekistan

***"In the past I was waiting for an official response from the President of Uzbekistan, but now I understand his silence as approval of everything that happens in Uzbekistan against the LGBT community, it's so horrible. Silence is also a statement."*** A young gay man from Uzbekistan

29 <https://www.gazeta.uz/ru/2022/01/21/mayorov/>

30 For further information on his case, refer to *Uzbekistan: Miraziz Bazarov charged with slander in blatant violation of Uzbekistan's international obligations to respect the right to freedom of expression*, 27 September 2021.

International human rights groups advocating for the decriminalization of homosexuality in Uzbekistan hoped that lawmakers would remove the offence when elaborating a new Criminal Code, but the draft Criminal Code published by the Prosecutor General's Office on 22 February 2021 retains criminal punishment for consensual sex between men, and leaves its wording unchanged. The crime was moved from Article 120 in the current Criminal Code to Article 154 in the new chapter of the draft Code entitled "Crimes against family, children and morality". At the time of writing, the draft Criminal Code is still under consideration. The governmental National Centre for Human Rights informed IPHR in February 2022 that the draft Criminal Code "is currently being finalized taking into account proposals and comments received after public discussion."

Uzbekistan has no comprehensive anti-discrimination legislation that specifically prohibits discrimination on grounds of sexual orientation or gender identity. There are no initiatives specifically aimed at counteracting such discrimination, nor are there government programmes or initiatives to promote tolerance towards LGBT people. While domestic legislation punishes incitement of ethnic, racial or religious hatred, there are no legal provisions against hate crimes on the basis of homo- or transphobia.

## Government policy

Interactions with UN bodies in recent years and letters from the Ombudsperson of Uzbekistan and from the governmental National Centre for Human Rights to IPHR have so far demonstrated the authorities' reluctance to decriminalize consensual homosexual relations. They have not acknowledged or addressed the fact that the criminalization of consensual sexual relations between men is a human rights violation nor have they taken measures to protect LGBT people from discrimination and abuse by police and non-state actors or from violations of the right to privacy.

During the Universal Periodic Review of Uzbekistan by the Human Rights Council in May 2018, Uzbekistan received 11 recommendations calling on the country to decriminalize homosexuality and combat discrimination including on the basis of sexual orientation and gender identity. Uzbekistan *noted* these recommendations, but did not support them.

In December 2019, the Uzbekistani government *informed* the UN Human Rights Committee (HRC) in its replies to the Committee's List of Issues that the "question of exceptions to article 120 of the Criminal Code and the decriminalization of sexual acts between men is under discussion in expert groups as part of the process of drafting the new version of the Criminal Code." The government added that in "view of the country's religious, ethical and cultural traditions and the underpinnings of Uzbek society, these issues must be widely discussed among the population before any final decision is reached."

In March 2020, Okil Ubaydullaev, a member of the government delegation and chief consultant for Uzbekistan's Presidential Security Council, stated during the HRC's review of Uzbekistan in March 2020 that "Uzbekistan had no laws restricting the employment or health care of members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community." He claimed that "(a)lthough that lifestyle was not approved by Islam and was not in keeping with the Uzbek mindset, no radical measures had been taken against persons belonging to that community". He added that the "proposal to decriminalize same-sex relations by repealing article 120 of the Criminal Code had met with strong public opposition, and not only from Muslims" and concluded that "(g)iven the specific religious and cultural context in Uzbekistan, the issue needed to be thoroughly discussed by civil society before any decision was taken."

In September 2020, in its reply to the List of Issues of the CESCR the governments stated that the “decriminalization of homosexuality has not been considered owing to the pressing need to combat the spread of HIV”.

In its letter to IPHR of January 2022, the Uzbekistani Ombudsperson for Human Rights wrote that “it is impossible to remove criminal responsibility for consensual sexual relations between men from our national legislation because in our country sodomy is rejected in line with our national values, which have evolved over centuries.” The Ombudsperson added that “scientists and experts, who participated in the drafting of the new version of the Criminal Code as part of the Interagency Commission headed by the General Prosecutor’s Office, adopted the unified position not to decriminalize Article 120 of the Criminal Code.”

According to the Ombudsman’s letter, the main reasons to retain the criminalization of consensual homosexual relations are the fear that decriminalization would lead to “serious discontent in the majority of the population, which (...) could lead to instability in society”; and that the removal of the article from the Criminal Code could “lead to manifestations of homosexuality that are foreign to our mentality and the traditions of mankind.” Additionally, the Ombudsperson expressed concern that there would be an increase in cases of violent mobs taking matters into their own hands. The Ombudsperson also claimed that sexual intercourse between persons of the same sex “undermines our national traditions and values”, “negatively influences the reputation of our country among Muslims around the world”, and leads to “immoral relations in society”.

The governmental National Centre for Human Rights cited similar concerns in its letter to IPHR, dated February 2022, adding that it regards “propaganda of homosexuality” as a “serious danger to our society”.

On 22 February 2022, Akmal Saidov, the head of the National Centre for Human Rights and member of the government delegation to the CESCR, told the CESCR that “Uzbekistan took its international obligations very seriously” and that the repeal of Article 120 “was under consideration as part of the general review of criminal law”. At the same time, he pointed out that “the Government must consider the extremely negative social attitudes to homosexuality prevalent in Uzbekistan”.

## **Homophobic statements by government officials and politicians**

Several government representatives and politicians have expressed homophobic views publicly in recent years. Senior government officials have failed to stand up for the human rights of LGBT people following such statements. Below are examples of homophobic statements by government officials, politicians and on state television.

Vice-President of the Oliy Majlis (Legislative Chamber of Parliament) Alisher Kadyrov was reported by the news agency Podrobno.uz as stating on social media in March 2021 that Article 120 should be strengthened: “The Article has to prohibit all forms of propaganda of homosexuality and LGBT ideas (...). The Article “should stipulate compulsory treatment, imprisonment, revocation of citizenship, and deportation (...). It’s the same as with terrorists, those who have no pride, have no nationality! We

reject you! We will do our best to make Uzbekistan a country where you cannot live.”<sup>31</sup> In a report by the news outlet [gazeta.uz](http://gazeta.uz) issued in July 2021, Kadyrov was additionally reported as saying: “Uzbeks can modernize, they can change their worldview, but they will never legalize homosexual conduct or same-sex male marriage, not in a hundred, not in a thousand years (...). So why torment these people and force them to live in our society? (...) Let’s help (them). Let’s take away their citizenship so that others could quickly take them in.”<sup>32</sup>

In March 2021, Rasul Kusherbayev, a member of Uzbekistan’s legislative chamber issued a speech on his [telegram channel](#) in which he decried LGBT rights. He claimed that such rights were not a norm of international law. He further stated that he did not care about the rights of such people and that – in his capacity as a member of parliament – he would never allow two men to live together as a married couple. He went as far as claiming that LGBT rights would damage the country’s development and lead to the degradation of its gene pool, asserting that the intent of international human rights organisations was not to protect LGBT people, but to cause the extinction of certain peoples.

The same month, parliamentarian Buranov Sherbek, of the People’s Democratic Party gave a speech hailing Article 120 of the Criminal Code, urging that it not be repealed and stating that the Article was based on the views and wishes of Uzbekistan’s voters. In the same speech he further encouraged voters to reject LGBT people from society, saying that such people were “contrary to [Uzbekistan’s] legislation, the values of [its] people, [its] sacred religion”.<sup>33</sup>

The hokim (governor) of Samarkand, Boburmirzo Oblakulov, gave a speech in August 2021 in which he claimed that LGBT people had no place in Uzbekistan, urging that the country be cleansed of western values and destructive forces seeking to corrupt the nation by influencing and degrading the moral values of young people.

In August 2020, Uzbek state television broadcast a 90-minute programme which railed against feminism and same-sex relations as “foreign elements” which required opposition. The programme featured alleged experts who described the LGBT movement as a cultural and spiritual “virus”, more dangerous than the COVID-19 pandemic, highlighting in particular the “danger” of same-sex marriage and gender reassignment operations. The programme also cautioned young people against falling under the influence of homosexuals and copying “gay fashion”. In this bizarre segment, Mansur Musayev, an official from the Department of Spirituality and Enlightenment, asserted that European gays were able to recognise each other by wearing short (or no) socks and by shaving their hair at the temples.

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31 <https://podrobno.uz/cat/proisshestviya/rukovoditel-demokraticheskoy-partii-milliy-tiklanish-zayavil-cto-predstaviteley-lgbt-soobshchestva/>

32 <https://www.gazeta.uz/ru/2021/06/07/kadirov-alisher/>

33 <https://parliament.gov.uz/uz/events/opinion/34073/> (in Uzbek)

# Uzbekistan's international human rights commitments

In October 2020, Uzbekistan was elected to the UN Human Rights Council for the period 2021 to 2023. As a member, the country is expected to “uphold the highest standards in the promotion and protection of human rights”, according to the Human Rights Council’s founding resolution.<sup>34</sup>

As a party to the ICCPR, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other international human rights treaties, Uzbekistan has committed to uphold human rights principles that affect LGBT people in Uzbekistan. This chapter provides a brief overview of these principles. For further information on obligations under international human rights law, refer to the Report of the Office of the United Nations High Commissioner for Human Rights on Discrimination and violence against individuals based on sexual orientation and gender identity that was issued in May 2015.<sup>35</sup>

After reviewing the implementation of Uzbekistan’s treaty obligations, the CAT, the HRC and the CESCR issued concluding observations in January 2020, April 2020 and March 2022 respectively, raising concern about the criminalization of consensual same-sex relations between men and about continuing reports of human rights violations against LGBT people by state and non-state actors, including discrimination, harassment, torture and ill-treatment in detention, as well as impunity for the perpetrators of such abuses. The three UN Committees called on Uzbekistan to repeal Article 120 of the Criminal Code and to adopt comprehensive anti-discrimination legislation. The Committee against Torture (CAT) and the HRC additionally urged Uzbekistan to effectively investigate allegations of torture and other forms of abuse; bring the perpetrators to justice; and combat social stigmatization, harassment, hate speech, discrimination or violence based on a person’s sexual orientation or gender identity.

During the Universal Periodic Review of Uzbekistan by the Human Rights Council in May 2018, eleven countries called on Uzbekistan to decriminalize homosexuality and combat discrimination including on the basis of sexual orientation and gender identity. Uzbekistan noted the recommendations, but did not support them.

There follows an outline of key principles of international human rights law that are frequently violated in Uzbekistan in relation to gays, bisexual men and trans people.

## The right to be free from discrimination

International human rights law and standards oblige states to ensure the equal protection of all persons and to guarantee and uphold the rights of all individuals within their jurisdictions without distinction or discrimination of any kind. As a party to the ICCPR Uzbekistan has made a commitment to uphold the principle contained in Article 26, namely that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

34 Resolution adopted by the General Assembly, Human Rights Council, 3 April 2006, para. 9 (A/RES/60/251).

35 High Commissioner’s *report* to the Human Rights Council, May 2015 (A/HRC/29/23)

While the listed grounds of prohibited discrimination included in this and other UN treaties do not explicitly refer to “sexual orientation” or “gender identity”, the grounds that are spelled out are not exhaustive and the provisions banning discrimination also apply to discrimination due to “other status”, including sexual orientation and gender identity.

In July 2009, the CESCR confirmed in its General Comment No. 20 that sexual orientation and gender identity are recognized as being among the prohibited discrimination grounds (paragraph 32).

In May 2016, in General Comment No. 22 the CESCR made it very clear that criminalizing same-sex relations between consenting adults is a human rights violation and that State parties to the Covenant have an obligation to combat homophobia and transphobia (paragraph 23).

In the 2015 report to the Human Rights Council on discrimination and violence against individuals based on their sexual orientation and gender identity, the High Commissioner for Human Rights highlighted that countries “that criminalize consensual homosexual acts are in breach of international human rights law since these laws, by their mere existence, violate the rights to privacy and non-discrimination” (para. 43) and that states “must refrain from arresting or detaining persons on discriminatory grounds, including sexual orientation and gender identity” (para. 15).

International human rights bodies have stressed that discriminatory laws have a negative impact on public health campaigns against HIV/AIDS.<sup>36</sup>

## **The right to be free from arbitrary arrest and detention**

Article 9(1) of the ICCPR stipulates that “[e]veryone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.”

The Working Group on Arbitrary Detention has consistently maintained that detaining an individual on the basis of her or his sexual orientation is prohibited under international law.<sup>37</sup>

In its General Comment No. 35, issued in December 2014, the HRC specified that arrest or detention on discriminatory grounds, including for reasons of sexual orientation or gender identity, is considered arbitrary and in violation of States’ obligations under the ICCPR (paragraphs 3 and 17).

## **The right to be free from torture and ill-treatment**

As a party to the ICCPR and the Convention against Torture, Uzbekistan has committed to ensuring that no one is subjected to torture or to cruel, inhuman or degrading treatment or punishment (Article 7 of the ICCPR and Articles 2 and 16 of the Convention against Torture).

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36 See, for example: Concluding Observations of the Human Rights Committee on Cameroon (CCPR/C/CMR/CO/4), 2010, at para. 12; Jamaica (CCPR/C/JAM/CO/3), 2011, at para. 9. See also, *Toonen v. Australia*, Communication No. 488/1992 (CCPR/C/50/D/488/1992), 1994, at para. 8.5.

37 <https://www.ohchr.org/documents/publications/bornfreeandequallowres.pdf>

In General Comment No. 2 the CAT clarified that State responsibility is engaged if public officials, including prison and police officers, directly commit, instigate, incite, encourage, acquiesce in or otherwise participate or are complicit in acts of torture or other forms of ill-treatment, as well as if officials fail to prevent, investigate, prosecute and punish such acts by public or private actors (paragraphs 15-19).

Article 14 of the Convention against Torture obliges States to ensure in their legal systems “that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible.”

The prohibition of torture includes the prohibition of sexual violence and the duty of the state to do its utmost to prevent the perpetration of sexual violence, address any act of sexual violence and guarantee judicial remedies to the victims.<sup>38</sup>

Article 1 of the Convention against Torture stipulates that when severe pain or suffering is inflicted on a person “by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” for a range of purposes and reasons including “discrimination of any kind” then this is considered torture.

In 2001, in his interim report to the UN General Assembly Sir Nigel Rodley, then Special Rapporteur on torture, expressed concern that LGBT people appear to be “disproportionately subjected to torture and other forms of ill-treatment, because they fail to conform to socially constructed gender expectations” (paragraph 19) and that “[d]iscriminatory attitudes to members of sexual minorities can mean that they are perceived as less credible by law enforcement agencies or not fully entitled to an equal standard of protection, including protection against violence carried out by non-State agents”. He also deplored that “the threat by law enforcement officials to publicly disclose the birth sex of the victim or his or her sexual orientation (inter alia, to family members) may keep a considerable number of victims from reporting abuses” (paragraph 21).<sup>39</sup>

General Comment No. 2, issued by the CAT in January 2008, stipulates that the obligation of States to prevent torture includes the obligation to ensure that “their laws are in practice applied to all persons,” regardless, among others, of “sexual orientation” and “transgender identity” and to protect “members of groups especially at risk of being tortured, by fully prosecuting and punishing all acts of violence and abuse against these individuals and ensuring implementation of other positive measures of prevention and protection” (paragraph 21). The CAT also held that “[b]oth men and women and boys and girls may be subject to violations of the Convention on the basis of their actual or perceived non-conformity with socially determined gender roles. States parties are requested to identify these situations and the measures taken to punish and prevent them in their reports” (paragraph 22).

The CAT’s General Comment No. 3, issued in November 2012, clarifies the obligations of States parties under Article 14 of the Convention and stipulates that redress shall be equally accessible to all persons “regardless of [...] sexual orientation [or] gender identity” (paragraph 32).

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38 Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, Addendum, A/HRC/14/22/Add.1, paragraph 19, 2 June 2010: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/14session/A.HRC.14.22.Add1.pdf>

39 <https://digitallibrary.un.org/record/446206#record-files-collapse-header>

## The right to health

As a party to the ICESCR, under Article 12, Uzbekistan has committed to ensuring “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health”.

As defined by the CESCR in its General Comment No. 14 the right to health contains both freedoms and entitlements. The freedoms include the right to control one’s health and body, including sexual and reproductive freedom, and the right to be free from interference such as the right to be free from torture, non-consensual medical treatment and experimentation (paragraph 8).

General Comment No. 14 also stipulates that the right to health contains as its essential element accessibility of health facilities, goods and services without discrimination. Especially the most vulnerable or marginalized groups of the population, must have access to health facilities, goods and services. It should be stressed that a State party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations, as they are considered as non-derogable (paragraph 43).

Information accessibility is an important aspect of the right to health, which includes the right to seek, receive and impart information and ideas concerning health issues. However, as defined by the Committee, accessibility of information should not impair the right to have personal health data treated with confidentiality. Under Article 12, Uzbekistan has an obligation to ensure that “all health facilities, goods and services are respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned” (paragraph 12 of General Comment No. 14).

In March 2022, the CESCR in its Concluding observations on the third periodic report of Uzbekistan recommended that Uzbekistan reviews its legislative framework with the aim of eliminating discriminatory provisions against persons with HIV/AIDS and conducts awareness-raising campaigns targeting the public, health-care providers, law enforcement and other public officials to eliminate negative stereotypes and stigma against members of marginalized groups, such as persons living with HIV and lesbian, gay, bisexual, transgender and intersex persons.<sup>40</sup>

## The right to privacy

Article 17 of the ICCPR holds that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

In General Comment No. 16, the HRC clarified that the authorities “should only be able to call for such information relating to an individual’s private life the knowledge of which is essential in the interests of society as understood under the Covenant” (paragraph 17). The HRC also specified that States must ensure access to effective protection against any unlawful attacks on one’s honour or reputation (paragraph 11).

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40 Concluding Observation of the Committee on Economic, Social and Cultural Rights on Uzbekistan (E/C.12/UZB/CO/3), 2022, at para 21. [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fUZB%2fCO%2f3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fUZB%2fCO%2f3&Lang=en)

The right to privacy under Article 17 of the ICCPR also “encompasses obligations to respect physical privacy, including the obligation to seek informed consent to HIV testing and privacy of information, including the need to respect confidentiality of all information relating to a person’s HIV status.”<sup>41</sup> The 2006 Political Declaration on HIV/AIDS emphasizes that increased access to HIV testing and treatment should be implemented with the full protection of confidentiality and informed consent.

## Recommendations to the authorities of Uzbekistan

- Swiftly decriminalize consensual sexual relations between men or impose a de iure moratorium while full abolition of Article 120 from the Criminal Code is under consideration.
- Swiftly and unconditionally release and rehabilitate all those convicted under Article 120 of the Criminal Code.
- Establish a special mechanism to effectively investigate allegations and complaints about arbitrary detention, torture and other ill-treatment and extortion of LGBT people by government agents as well as of abuse by non-state actors; put in place procedures to ensure that those who lodge complaints or provide information are protected against reprisals as soon as their allegations are received; ensure that prompt, thorough, impartial and independent investigations are conducted and that the suspected perpetrators are brought to justice in fair trials.
- Abolish anal examinations and ensure that they are not admitted in court as evidence of homosexual conduct.
- Adopt comprehensive anti-discrimination legislation that specifically includes sexual orientation and gender identity as prohibited grounds for discrimination.
- Introduce legislation to ensure that HIV centres across Uzbekistan treat information about their clients’ sexual orientation, gender identity and health strictly confidentially and explicitly prohibit sharing information about clients with law enforcement agencies.
- Investigate allegations of the personal details of gays, bisexual men and trans people being disclosed and shared on homophobic communication channels and bring those responsible to justice.
- Open disciplinary or, where appropriate, criminal procedures against police officers who produce and share recordings on social media and other public and semi-public communication channels that violate the right to privacy of LGBT detainees.
- Promptly and unconditionally revoke all limitations of liberty imposed on the blogger Miraziz Bazarov and drop all charges against him.
- Protect the right to freedom of expression including peaceful expression of opinions about sexual orientation, gender identity and human rights violations affecting LGBT people.
- Raise public awareness about the human rights of LGBT people and publicly state that the protection of their rights forms an integral part of Uzbekistan’s international human rights commitments.

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41 International Guidelines on HIV/AIDS and Human Rights, para. 119: <https://www.ohchr.org/documents/publications/hivaidsguidelinesen.pdf>