



**Joint Submission to the Human Rights Council's Universal Periodic Review Working Group regarding the Review of Uzbekistan at the 44<sup>th</sup> session**

**15 March 2023**

**INFORMATION ABOUT THE ORGANISATIONS MAKING THIS SUBMISSION**

CAGSAN - Central Asian Gender and Sexuality Advocacy Network, was established in June 2012 to document and identify human rights violations based on gender and sexuality in Central Asia. The network includes activists from four Central Asian countries working in the field of human rights, right to health and well-being of the most vulnerable groups of the population, including LGBTI people.

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ILGA-Europe - an independent, international non-governmental umbrella organisation uniting over 700 organisations from 54 countries across Europe and Central Asia. We are part of the wider international ILGA organisation – created in 1978 – but were established as a separate region and an independent legal entity in 1996. Our role is to enable the movement and be the connector. We unite activists with allies – and put institutional actors in touch with the issues we care about and the movement as a whole. With that in mind, we build strategic partnerships with LGBTI allies in society, like the private sector; but overall, we also nurture greater alliances between LGBTI and other equality and social justice movements. We speak to the realities of LGBTI people's lives and activism and highlight forces for change – both negative and positive. In order to do that with credibility, we ensure we have an overview of what's happening; in other words, an understanding of the positive and negative issues that affect LGBTI people.

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**Joint Submission to the Human Rights Council's Universal Periodic Review Working Group regarding the Review of Uzbekistan at the 44<sup>th</sup> session**

## **Rights of lesbian, gay, bisexual and trans people in Uzbekistan**

15 March 2023

### **I. Brief Summary**

1. This report has been jointly prepared and submitted by the Central Asian Gender and Sexual Rights Action Network (CAGSAN) and ILGA-Europe. It provides information on the implementation of civil, political, economic, social, and cultural rights of the LGBT+ community in Uzbekistan as enshrined in international human rights treaties that Uzbekistan has voluntarily ratified.
2. The report is based on direct information received from representatives of the LGBT+ community in Uzbekistan, including reports of human rights violations motivated by sexual orientation or gender identity. For safety reasons, the names and places of residence of those who provided information have not been disclosed.
3. The report also uses publicly available materials and official documents such as the National Report of Uzbekistan on the Universal Periodic Review<sup>i</sup>, Summaries<sup>ii</sup>, and Compilations<sup>iii</sup> prepared by the Office of the United Nations High Commissioner for Human Rights, the Report of the Working Group on the Universal Periodic Review<sup>iv</sup>, and addenda on findings and recommendations, voluntary commitments, and responses provided by Uzbekistan<sup>v</sup>, as well as a report on the assessment of the implementation of recommendations<sup>vi</sup> and a report on sexual and reproductive rights prepared for the third UPR cycle in 2018<sup>vii</sup>. The report covers the period from September 1, 2017, to November 1, 2022.

### **II. General Information**

4. For more than a decade since 2011, there has not been a single representative office of any international human rights organization in Uzbekistan. Despite this, the country has ratified all major UN conventions<sup>viii</sup>.
5. In October 2020, Uzbekistan became a member of the UN Human Rights Council for the first time<sup>ix</sup>. However, this has had little impact on the level of human rights protection within the country. The country still lacks the necessary legislation to prevent hate crimes, hate speech, and discrimination.
6. Human rights activists in Uzbekistan are either unwilling or unable to speak openly about hate crimes and repression based on sexual orientation and gender identity, in line with the country's policy. In 2022, two cases were recorded where human rights defenders themselves violated the rights of LGBT+ people<sup>x</sup>.
7. For the past 14 years and the last three UPR cycles, Uzbekistan has ignored recommendations to decriminalize consensual homosexual relations between men, which have been in place since 2008. In the third UPR cycle in May 2018, 11 recommendations were received regarding the improvement of the rights of the LGBT+ community, but all were rejected. The rejection was based on the argument that "Uzbekistan, like all other member states of the Organization of Islamic Cooperation, seeks to preserve family values and therefore does not plan to amend Article 120 of the Criminal Code" and "Uzbekistan... took note of 14 recommendations that it cannot implement, either for legal and constitutional reasons or because of their inconsistency with the normative content, meaning, and practice of applying current legislation, and the national interests of the country."
8. Additionally, in January and May 2020, the UN Committee Against Torture and the UN Human Rights Committee<sup>xi</sup> recommended that Uzbekistan repeal Article 120 of the Criminal Code in connection with the submission of the draft of the new Criminal Code for public discussion on February 22, 2021.

### **III. Right to freedom of association for civil society.**

9. The position of the Uzbek government towards non-governmental human rights organizations (NGOs) is one of the major challenges when advocating for sexual and reproductive rights in Uzbekistan. The registration of non-profit NGOs requires approval, which contradicts the principle of freedom of association and assembly.
10. The Ministry of Justice of Uzbekistan developed a draft Code on Non-Governmental Non-Profit Organizations (NGOs)<sup>xii</sup> in accordance with a decree<sup>xiii</sup> from President Shavkat Mirziyoyev, outlining citizens' rights to establish NGOs, procedures for establishment, registration, operation, and abolition, and ways to exercise these rights. However, the main text of the draft Code remains unchanged with only minor modifications, such as reduced state fees for registration and an electronic registration system, hindering the free and independent activities of NGOs.
11. The by-laws in the draft Code imposed by the Ministry of Justice also restrict NGO activities and require coordination with the authorities. All participants must provide complete information, including passport data and the type of event, 20 days prior to any event.
12. States should urge the government of Uzbekistan to:
  - Ensure the right of NGOs working on issues of sexual rights, including reproductive health and LGBT+ rights, to freely carry out activities, in particular, this includes the removal of all unjustified state restrictions.

#### **IV. Discrimination based on sexual orientation and gender identity (SOGI) at the legislative level.**

13. The Criminal Code of the Republic of Uzbekistan still includes Article 120, which imposes imprisonment for consensual same sex relations between men: *Article 120. Besoqolbozlik (sodomy)<sup>xiv</sup>. Besoqolbozlik, that is, the satisfaction of the sexual needs of a man with a man without the use of violence, is punishable by restriction of liberty from one to three years, or imprisonment of up to three years.*
14. This article contributes to the perpetuation of homophobic attitudes in society, leading to violations of LGBT+ people's rights in various settings such as the family, work, and everyday life.
15. In February 2021, as a result of the policy of reform pursued by the country, the Republic of Uzbekistan presented a new draft Criminal Code to the public, retaining criminal penalties for consensual same-sex relations between men. This draft, which moved Article 120 to Article 154 under the "Crimes against the Family, Youth and Morality" chapter<sup>xv</sup>, reinforces the state's discriminatory stance against the LGBT+ community and accuses them of illegal actions against society.
16. In April 2021, the Central Penal Correction Department of the Ministry of Internal Affairs admitted that Article 120 is still enforceable<sup>xvi</sup>, despite previous claims by state representatives in all previous UPR cycles that the article being inactive and not enforced *de facto*. Every year, several individuals are convicted under Article 120. According to April 2021 data from the Main Directorate for the Execution of Punishments, 49 people were convicted under this article<sup>xvii</sup>.
17. Article 120 makes it difficult for homosexual and bisexual men to seek justice or report discrimination or rights violations based on their sexual orientation, as they risk facing charges under this article themselves. As a result, many offenses and crimes go unreported and unpunished.
18. The existence of Article 120 also indirectly impacts women who engage in same-sex relations, perpetuating homophobic attitudes in society and deterring lesbians and bisexual women from reporting discrimination or rights violations. In fact, 47% of surveyed LBT women have experienced violence or discrimination<sup>xviii</sup>, but avoid seeking

help from the courts due to the criminalization of same sex relation between men. The repeal of Article 120 is also crucial for meaningful protection of the rights of LBT women.

19. States should urge the government of Uzbekistan to:

- Decriminalise consensual sexual relations between men, or impose a moratorium on the application of Article 120 while Article 120 of the Criminal Code is being reviewed.
- Release and rehabilitate all those convicted or under investigation under Article 120.

#### **V. Discrimination and violence by law enforcement agencies.**

20. In 2017-2022, 77 cases of rights violations and crimes committed against individuals based on their sexual orientation and gender identity were recorded in Uzbekistan<sup>xix</sup>. Law enforcement officers were the main perpetrators in 44% (34 cases) of these incidents.

21. These officers were found to use physical and psychological violence, including beatings, threats, and bribes, when detaining LGBT+ individuals. In investigations, the accused were subjected to physical and mental pressure, including beatings, anal examinations<sup>xx</sup>, corrective rape, starvation, sleep deprivation, tying victims up and hanging them by their hands, threats of violence against relatives or forcing victims to work for law enforcement. Also, law enforcement agencies threaten to disseminate collected information about the private lives of LGBT+ individuals without their consent in order to blackmail and extort them. They use personal correspondence as evidence of the homosexuality of LGBT+ individuals when filing charges under Article 120.

22. The existence of Article 120 is beneficial for law enforcement officers, since it often serves as a means of personal enrichment (56% of such cases involve extortion) and career advancement, and is also a means of applying pressure in criminal cases, for example, refusing to open a case if the victim is suspected of being LGBT+, or obtaining a confession by threatening to prosecute a suspect under Article 120. To date, only one case of punishment (dismissal) for law enforcement officers guilty of rights violations based on SOGI has been recorded.

23. States should urge the government of Uzbekistan to:

- Introduce a mechanism to consider statements and complaints about illegal detention, torture and other forms of ill-treatment and extortion against LGBT+ persons by representatives of law enforcement agencies.
- End the practice of anal examinations, and in accordance with the ruling of the Supreme Court of the Republic of Uzbekistan on the inadmissibility of evidence obtained under torture, put an end to the use of the results of anal examinations as evidence of homosexual behavior.
- Investigate and prosecute law enforcement officers responsible for the use of torture, and inhuman and degrading treatment and punishment against LGBT+ people.

#### **VI. Discrimination and violence in the family and in society.**

24. Young LGBT+ people often experience domestic violence (5% of all cases)<sup>xxi</sup>. Some are beaten by their relatives after a voluntary or forced coming out. Others are kicked out of their homes or placed under house arrest.

25. As a result of a homophobic society, LGBT+ people are most often subjected to: beatings (12% of all cases) and outings (10%). In other cases, LGBT+ people faced

harassment, threats, insults, denial of medical care, discrimination in the workplace, and so-called “corrective rape” due to their SOGI.

26. There is no definition of domestic violence and/or bias motivated violence in Uzbek legislation. Hence, no protection and support for victims of domestic or bias motivated violence are provided by the state.
27. States should urge the government of Uzbekistan to:
  - Develop and adopt legislation on domestic violence that provides protection and victims support services for LGBT+ people among others.
  - Develop and adopt antidiscrimination, hate crime legislation that includes protection and victims support services for LGBT+ people explicitly among other vulnerable groups.

## **VII. Discrimination in the social and economic environment.**

28. LGBT+ people are also subject to violations of their rights **in the field of healthcare**. For instance, men suspected of being homosexual are subjected to forced anal examinations (at least 9 such cases have been documented by CAGSAN between 2017 and 2021). Such treatment is a form of cruel, inhuman, and degrading treatment, and can reach the level of torture. The World Health Organization condemns this practice as a form of violence and torture<sup>xxiii</sup>.
29. According to official data, as of February 2022, approximately 45,000 people living with HIV were registered in Uzbekistan<sup>xxiii</sup>.
30. On the one hand, according to Chapter 3, Article 14 of the Law “On counteracting the spread of the disease caused by the human immunodeficiency virus (HIV)”<sup>xxiv</sup>, citizens have the right to voluntary, anonymous, and confidential medical examination for HIV infection. On the other hand, health authorities are required to report cases of sexual transmission of HIV for further investigation under Article 113 of the Criminal Code of the Republic of Uzbekistan<sup>xxv</sup> on the spread of sexually transmitted diseases (according to the order of the Minister of Health of the Republic of Uzbekistan 54-n of April 5, 2019). In addition, according to Article 57 of the Code of Administrative Offenses<sup>xxvi</sup>, HIV-positive people are required to disclose information about their sexual partners to government agencies.
31. Thus, a person has two options: go to an AIDS center and risk their confidentiality, but receive the necessary treatment if the disease is detected, or not get tested and endanger themselves and their partners.
32. In August 2022, the Ministry of Internal Affairs of Uzbekistan proposed<sup>xxvii</sup> to approve the procedure for compulsory medical examination of persons with suspected of having HIV. The draft resolution of the Cabinet of Ministers was submitted for public discussion, and contains discriminatory provisions on the forced examination of various groups, including gay and bisexual men, as well as those who have been in contact with these groups. Compulsory medical examinations are a violation of human rights, and not only fail to bring positive changes in the fight against HIV, but also worsen the situation.
33. Services related to HIV are monitored closely by the state, which is a risk factor for homosexual and bisexual men, due to the existence of discriminatory legislation; this is also a factor affecting the reliability of official statistics on HIV-positive men having sex with men (MSM). As a result, some MSM do not have access to medical services and information about the prevention and treatment of HIV and STIs.
34. The threat of criminal prosecution for homosexuality, among other things, hinders the collection accurate statistics on MSM; there is evidence that the data of persons who apply to AIDS centers and are classified as MSM is passed on to law enforcement agencies. A special code “103” is put in their medical records for this purpose.

35. There are documented cases where AIDS centers have transferred information about patients' HIV status and sexual orientation to law enforcement agencies, which has resulted in their subsequent prosecution under Articles 120 and/or 113 of the Criminal Code of Uzbekistan. Cases have been documented related to the refusal of AIDS centers to provide ARV therapy in connection with the disclosure of the sexual orientation of patients<sup>xxviii</sup>. There have also been documented cases related to refusals to provide medical services due to a patient's HIV+ status<sup>xxix</sup>.
36. Cases were also recorded related to violations of rights of LGBT+ people in the field of **education**<sup>xxx</sup> and **employment**<sup>xxxi</sup>.
37. States should urge the government of Uzbekistan to:
  - End the practice of anal examinations, and in accordance with the ruling of the Supreme Court of the Republic of Uzbekistan on the inadmissibility of evidence obtained under torture, put an end to the use of the results of anal examinations as evidence of homosexual behavior.
  - Bring to justice those responsible for violations of the social and economic rights of LGBT+ people.
  - Expand HIV prevention programs and include LGBT+ people in them.
  - End the practice of compulsory testing of LGBT+ people for HIV/AIDS and other STIs and use of test results as evidence for prosecuting LGBT+ people under Articles 113 and 120 of the Criminal Code of the Republic of Uzbekistan.
  - Adopt legislation to ensure that AIDS centers, STI clinics and other healthcare institutions treat patients' sexual orientation, gender identity, and health information as strictly confidential, and expressly prohibit the sharing of this information with law enforcement agencies.

### **VIII. Hate speech by state officials**

38. Over the last three years, as a result of the influence of the factors discussed above, there has been a general increase in homophobic sentiments in the country, including calls for tougher punishment from the leader of the “Milliy Tiklanish” (National Revival) democratic party and Deputy of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan, Alisher Kadyrov<sup>xxxii</sup>.
39. The story of Miraziz Bazarov<sup>xxxiii</sup>, who very quickly turned from a victim into an accused<sup>xxxiv</sup>, only because he spoke out in defense of the rights of LGBT+ people and opposed corruption, is quite indicative in this regard.
40. Following the incident with Miraziz Bazarov, there has been an increase in hate speech against LGBT+ people at the government level, including by government officials and deputies of the Oliy Majlis<sup>xxxv</sup>.
41. States should urge the government of Uzbekistan to:
  - Condemn and prohibit “hate speech” by state authorities against LGBT+ people.
  - Raise public awareness about the rights of LGBT+ people and other vulnerable and marginalised groups.

### **IX. Media and its impact on the rights of LGBT+ people**

42. In the largely state-controlled media, homosexuality is only discussed in a negative way and often it encourages negative attitude towards LGBT+ people.
43. This is evidenced, for example, by articles such as:
  - a. UZA warns of the danger of “introducing the idea of homosexuality”<sup>xxxvi</sup>
  - b. Legalization of same-sex relationships will mean death, Rasul Kuserbaev<sup>xxxvii</sup>
44. There was also the TV show “Munosabat”<sup>xxxviii</sup>, released in August 2020 on the state television channel "Uzbekistan", which greatly resonated in society.

45. At the same time, LGBT+ people are limited in their ability to use media in the country; in 2014, the government of Uzbekistan issued a decree allowing video surveillance of the actions of visitors to Internet cafes, and the transfer of this information to law enforcement officers and employees of the National Security Service.
46. On December 14, 2022, the new Information Code<sup>xxxix</sup> was published for public discussion; the draft has already been approved by 50 relevant ministries and departments. According Article 54<sup>xl</sup> of this document, “Abuse of mass media freedom”, “propaganda of pornography, and unnatural relations between representatives of the same sex is not allowed” in the media.
47. States should urge the government of Uzbekistan to:
  - Condemn and prohibit bias motivated speech by state and private media against LGBT+ individuals.

**X. Hate speech against LGBT+ people from religious leaders.**

48. Over the last 5 years in Uzbekistan, there has been a rapid process of the Islamisation of society with a radical slant, as the vast majority of religious people do not seek to study the Koran in the original as a primary source, but rather listen to religious leaders such as Abror Mukhtor Aliy<sup>xli</sup> (a preacher from the Tashkent mosque Abror Abduazimov), Alisher Tursunov (Mubashshir Ahmad) and others like them<sup>xlii</sup>.
49. Abror Mukhtar Ali, already mentioned above, gives regular speeches expressing hatred towards LGBT+ people, and encouraging reprisals against them<sup>xliii</sup>.
50. In general, the government upholds this situation as much as possible, and even provides some support<sup>xliv</sup> to people such as Abror Mukhtor Aliy.
51. As a result, this leads to people confusing the religious mentality and existing laws, which makes them willing to carry out lynchings of LGBT+ people.
52. A repeated message appeared in cases collected over the past 5 years, according to which LGBT+ people should go to the mosque as often as possible and constantly read prayers “to atone for this sin.”
53. States should urge the government of Uzbekistan to:
  - Prohibit hate speech and incitement to violence by religious leaders against LGBT+ individuals.

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

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

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

<sup>v</sup> [lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/A\\_HRC\\_24\\_7\\_Add.1\\_Uzbekistan\\_R.doc](http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/UZ/A_HRC_24_7_Add.1_Uzbekistan_R.doc)

<sup>vi</sup> [https://www.upr-info.org/sites/default/files/document/uzbekistan/session\\_16\\_-](https://www.upr-info.org/sites/default/files/document/uzbekistan/session_16_-)

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<sup>xxxvi</sup> <https://www.gazeta.uz/ru/2019/10/16/idea/#!>

<sup>xxxvii</sup> <https://www.gazeta.uz/ru/2021/03/15/lgbt/>

<sup>xxxviii</sup> <https://www.youtube.com/watch?v=mXBx443CHA4>,

<https://www.gazeta.uz/ru/2020/08/27/munosabat/> and <https://themag.uz/post/korotko-onoskah>

<sup>xxxix</sup> <https://uz.sputniknews.ru/20221216/v-uzbekistane-predlagayut-zapretit-propagandu-lgbt-30778385.html>

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