



“We just want to be who we are!”

LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE

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IPHR International
Partnership
for Human Rights

HR HELSINKI FOUNDATION
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Executive summary

The human rights of lesbian, gay, bisexual and transgender (LGBT) people in Tajikistan are often egregiously abused.

While consensual homosexual relations between (male) adults were decriminalized in Tajikistan in 1998, there are allegations that unpublished instructions task agencies of the Ministry of Internal Affairs to counteract the “spread of homosexuality”. A press release issued by the Ministry in 2014 referred to “homosexuality and lesbianism” as belonging to the list of crimes and offences against morality and public order that the Ministry is tasked to counteract and in another 2014 press release the Ministry informed that three people had been subjected to “the necessary measures for homosexual behaviour”.

Police frequently target LGBT people because of their sexual orientation or gender identity. Officers exploit this group’s vulnerable situation, which stems from widespread societal homophobia and transphobia, and blackmail them for their own financial gain. Many LGBT people have been subjected to physical and sexual abuse by police officers in recent years. Extortion and violence by the police as well as abuse by non-state actors take place with almost complete impunity.

In recent years local and international human rights groups have become increasingly concerned about the shrinking space for independent civil society organizations in Tajikistan. Societal homophobia and transphobia make those organizations which work with sexual minorities particularly vulnerable to government pressure. Tajikistani civil society groups working with LGBT people in the framework of health or human rights programmes are not invited to government-organized round tables or working groups. Thus, they lack opportunities to contribute to policy discussions and the legislative process pertaining to areas of their work or to provide input into Tajikistan’s engagement with United Nations (UN) treaty bodies and mechanisms or the UN’s Universal Periodic Review.

The report concludes with a set of recommendations to the Tajikistani authorities aimed at putting an end to the abuse of LGBT people by police and non-state actors, counteracting impunity and ensuring that civil society groups working with LGBT people can carry out their peaceful activities without undue interference.

This document is based on information obtained by International Partnership for Human Rights (IPHR, Belgium) during a fact-finding mission to Tajikistan in October/November 2016, and in addition from Tajikistani LGBT people living abroad; from media sources, other NGO reports and academic papers. It is published jointly with Helsinki Foundation for Human Rights (HFHR, Poland) in the framework of the EU-funded project “Action for Freedom from Torture in Kazakhstan and Tajikistan” and forms an integral part of the project partners’ work toward the eradication of torture in Tajikistan.

Introduction

The human rights of lesbian, gay, bisexual and transgender (LGBT) people in Tajikistan are often egregiously abused and homophobia and transphobia run deep.

While consensual homosexual relations between (male) adults were decriminalized in Tajikistan in 1998, there are allegations that unpublished instructions task agencies of the Ministry of Internal Affairs to counteract the “spread of homosexuality”. A press release issued by the Ministry in 2014 referred to “homosexuality and lesbiansism” as belonging to the list of crimes and offences against morality and public order that the Ministry is tasked to counteract and in another 2014 press release the Ministry informed that three people had been subjected to “the necessary measures for homosexual behaviour”.

This report focuses on cases where police officers targeted LGBT people because of their sexual orientation or gender identity and details how the police exploit the vulnerable situation of LGBT people and blackmail them for their own financial gain. It documents cases of physical and sexual abuse by police officers and discusses the reasons why extortion and violence by the police as well as abuse by non-state actors continue to take place with almost complete impunity. The report also highlights the vulnerability to government pressure of civil society groups working with LGBT people in Tajikistan.

To establish the relevant legal context, this report provides information about key principles enshrined in international law with particular relevance to the human rights violations discussed in this report as well as a short overview of Tajikistan’s domestic legislation pertaining to the rights of sexual minorities. Also, by way of context, it briefly discusses the roots of homophobia and transphobia in Tajikistan, refers to homoerotic traditions in the country’s history, looks at societal stereotypes and stigma associated with sexual minorities in Tajikistan today and documents the abuse to which LGBT people are exposed by non-state actors. In order to further explain the particular vulnerability of LGBT people to exploitation by police officers the report provides information about the “honour-and-shame system” in which the honour and reputation of entire families is dependent on the adherence to commonly accepted gender and social norms by each of its members, putting immense pressure on LGBT people to hide their sexual orientation or gender identity.

The report concludes with a set of recommendations to the Tajikistani authorities aimed at ending the abuse of LGBT people by police and non-state actors, counteracting impunity and ensuring that civil society groups working with LGBT people can carry out their peaceful activities without undue government interference.¹

¹ The human rights violations that LGBT people are subjected to in state-run institutions other than police stations, due to their sexual orientation or gender identity, are beyond the scope of this report. Further research is needed to study the situation

The report is based on information obtained by International Partnership for Human Rights (IPHR, Belgium)² during a fact-finding mission to Tajikistan from 31 October to 7 November 2016. IPHR visited the capital Dushanbe, the city of Qurghonteppa in the southern Khatlon region and the city of Khujand in the northern Sughd region and conducted interviews with representatives of civil society organizations working with sexual minorities and sex workers as well as with dozens of women and men about their experiences as members of sexual minorities in Tajikistan. Since the civil society organizations³ IPHR visited mainly work with homosexual, bisexual and transgender men, IPHR interviewed more men than women. In addition, this report includes information obtained from several Tajikistani LGBT people living abroad; as well as media sources, other NGO reports and academic papers. For reasons of safety, the names of all interviewees referred to in the report have been changed, as has all other information that could make them recognizable.

Ahead of the October/November 2016 fact-finding mission, IPHR asked the Ministry of Foreign Affairs of Tajikistan to set up meetings with relevant government agencies in order to discuss the topics of this report and to be able to adequately reflect the authorities' information and views. Since the authorities did not respond, IPHR sent letters with a list of questions to the Ministry and the relevant agencies asking them to provide information in writing. Unfortunately, no reply was received.

The report is issued jointly by IPHR and Helsinki Foundation for Human Rights (HFHR, Poland)⁴ in the framework of the EU-funded project "Action for Freedom from Torture in Kazakhstan and Tajikistan". It forms an integral part of the project partners' work toward the eradication of torture in Tajikistan.⁵ The organizations issuing

and treatment of sexual minorities in institutions such as educational facilities, public health clinics, prisons and the armed forces bearing in mind that human rights groups have no access to army facilities and only limited access to the penitentiary system within the framework of the Monitoring Group under the Ombudsman.

² International Partnership for Human Rights (IPHR) is an independent, non-governmental organization founded in 2008. Based in Brussels, IPHR works closely together with civil society groups from different countries to raise human rights concerns at the international level and promote respect for the rights of vulnerable communities.

³ There are dozens of organizations across the country that work with "MSM", i.e. gay and bisexual men and transgender people alongside other clients in the context of health programmes, most of which are funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM). These organizations typically educate vulnerable groups such as sex workers, bi- and homosexual men and transgender people, on how to protect themselves from HIV/AIDS and other sexually transmitted diseases, provide them with condoms and offer free referrals to medical clinics for those who would not otherwise be able to afford undergoing tests for sexually transmitted diseases. Some organizations are also able to refer LGBT people to so-called "friendly doctors" who provide medical consultations free of charge and provide clients with medication that would otherwise be unaffordable.

⁴ Helsinki Foundation for Human Rights (HFHR) was founded in late 1989, after seven years of underground human rights activity by the Helsinki Committee in Poland. Initially established to carry out human rights research and education activities, HFHR now functions as an independent human rights research and policy institute. The group works in Poland and abroad. It conducts research, leads trainings, and organizes conferences and seminars. HFHR also provides expert consultation on human rights to international organizations, NGOs, state institutions (such as parliamentary committees, police officers, judicial officials, prison officials, border guards, public health officials) and individuals.

⁵ For further information on torture, ill-treatment and impunity in Tajikistan, refer to the following documents and the websites of the NGO Coalition against Torture (www.notorture.tj) in Tajikistan and IPHR (www.iphronline.org):
- *Tajikistan: Human Rights Situation on the Ground. Torture and other Ill-Treatment. Submission to the UN Universal Periodic Review 25th session of the UPR Working Group (April-May 2016)*, 11 September 2015: https://www.upr-info.org/sites/default/files/document/tajikistan/session_25_-_may_2016/js3_upr25_tjk_e_main.pdf
- *Tajikistan: Torture, ill-treatment and ongoing impunity. Briefing paper for government delegations ahead of the Universal Periodic Review*

this report would like to thank all those who provided input, especially the individuals who agreed to share their stories and experiences and the NGOs working with LGBT people in Tajikistan.

To date, there are very few publicly available reports, which document and/or analyze the human rights situation of LGBT people in Tajikistan.⁶ Some NGO reports containing such information have not been published so as not to endanger researchers, local civil society organizations, and other sources of information and some reports commissioned by IGOs such as the United Nations Development Programme (UNDP), an agency that covers LGBT-related issues in the framework of broader HIV prevention work, have reportedly not been published so as not to antagonize the Tajikistani authorities who are said to be reluctant to address the issue due to the high level of homophobia and transphobia in society.⁷

This report, which is mainly intended for international audiences and advocacy, uses the term LGBT⁸ when referring to members of sexual minorities in Tajikistan, since it is commonly used and understood in the international context. In Tajikistan this term is not widely used. The terminology for sexual minorities is currently evolving and different terms and concepts exist in parallel, such as the behavioural term “MSM” (men having sex with men), which was introduced in Tajikistan along with international HIV-prevention programmes over a decade ago⁹, and the Tajik terms “lak” and “degh”, which are used by members of sexual minorities among themselves to refer to the passive and active roles in sexual relations between biological males. This report also uses the terms “homosexual” and “homophobic” although it should be noted that in Tajikistan, as in many other countries with a predominantly Muslim population, fundamentally it is not sexual intercourse between men per se that is condemned by society, but what is primarily deplored is a preference for male-male sexual relations and a passive/receptive sexual role which is regarded as unmanly, weak and shameful. Societal homophobia is targeted primarily towards men who are seen to be unmanly, explaining why

of Tajikistan (25th session of the UPR Working Group, May 2016), 29 March 2016: <http://iphronline.org/wp-content/uploads/2016/04/Briefing-on-key-concerns-on-torture-for-UPR-Tajikistan-March-2016.pdf>

⁶ Here is a selection of NGO publications containing information about the human rights situation of LGBT people in Tajikistan. For media reports, refer to page 29 of this report:
- UPR Submission on Sexual Rights in Tajikistan by the NGOs Equal Opportunities (Tajikistan), Labrys (Kyrgyzstan) and the Sexual Rights Initiative, October 2011:

https://www.upr-info.org/sites/default/files/document/tajikistan/session_12_-_october_2011/js4-jointsubmission4-eng.pdf.

- Chapter on The Right to Equality and the Prohibition against Discrimination of the joint 2013 NGO submission to the UN Human Rights Committee, entitled *On the Republic of Tajikistan's Implementation of the International Covenant on Civil and Political Rights*: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fNGO%2fTJK%2f14623&Lang=en

⁷ Refer to: Anya Sarang: *Shaping gender identity in Tajikistan: historical and contemporary contexts*, 2016 (MA thesis): <http://scriptiesonline.uba.uva.nl/en/scriptie/618457>

⁸ This report does not use the term LGBTI because the Tajikistani NGOs did not discuss human rights concerns pertaining to intersex people and the IPHR researcher did not conduct interviews with intersex people.

⁹ The anthropologist Anya Sarang contends that the term “MSM” does not fully reflect the sexual orientation and gender identity of all clients involved in NGO projects for “MSM” in Tajikistan. Among the clients are gay and bisexual men as well as transgender women/bigender people who were born as biological males. In addition, many “MSM” prefer to refer to themselves in identity categories that correspond with the local understanding of gender and sexuality, which does not correlate with the Western European/North American “LGBT identity vocabulary”. In order to highlight the shortcomings of the term “MSM” in the Tajikistani context it is used in inverted commas in this report. For further information about the terminology used when referring to sexual minorities in Tajikistan and an analysis of the underlying concepts and implications, refer to: Sarang: *Gender identity*.

most “deghe” consider themselves to be heterosexual men and would not accept being called “gay” or “bisexual”.¹⁰ Many of them hold homophobic views.

Tajikistan is the poorest country of the Commonwealth of Independent States (CIS) with a gross domestic product (GDP) per capita of USD 925.90 in 2015, according to the World Bank. The dire economic situation sets the stage for the issues described in this report and has shaped some of the specifics of what it means to be an LGBT person in Tajikistan. For example, LGBT people who lack independent financial resources and are economically dependent on their families are particularly vulnerable to intimidation and abuse. Due to widespread unemployment and additional difficulties for some LGBT people to find legal work, those who leave their parents or heterosexual marriages often end up as sex workers to make ends meet. The close association of sex work and sexual minorities is likely to further stigmatize LGBT people. The police have discovered a source of additional income by blackmailing LGBT people. Against the backdrop of economic hardship, some LGBT people cooperate with the police as informers in return for a cut of the extorted money and unofficial police protection. This leads to an atmosphere of suspicion within the LGBT “community”, fear of socializing outside of trusted networks or of contacting civil society organizations working with sexual minorities. At the same time the poor economic situation also provides opportunities to LGBT people to express their sexual identities without being discovered by their communities. An example is the widespread labour migration to neighbouring and other countries that provide LGBT people, particularly males, with a temporary opportunity to engage in sexual behaviour of their preference without causing suspicion at home.

While the organizations issuing this report are mainly concerned about the human rights violations LGBT people are subjected to, international researchers who have studied the spread of HIV/AIDS in Tajikistan and some of the local organizations engaged in HIV prevention work whom IPHR interviewed additionally pointed out that homophobia, transphobia and human rights violations limit the access of LGBT people to HIV testing and prevention information and thus have an adverse effect on the epidemiological situation of the society as a whole. Many gay and bisexual men avoid places or situations associated with sexual minorities to prevent their sexual orientation from being discovered. In addition, there are allegations that medical staff in clinics performing HIV tests do not always adhere to the principle of confidentiality and sometimes ask probing questions about their clients’ private lives. Central Asia is considered a “hotspot” of the global HIV epidemic and men having sex with men are among the top risk groups.¹¹

¹⁰ For further background, refer to: Arno Schmitt: *Different Approaches to Male-Male Sexuality/Eroticism from Morocco to Uzbekistan*, in: Arno Schmitt, Jehoeda Sofer (ed.): *Sexuality and Eroticism among Males in Moslem Societies*, New York, London, Norwood 1992, p. 1-24.

¹¹ For further information about the link between homophobia/transphobia and the HIV epidemic in Central Asia, refer to Alisher Latypov, Tim Rhodes, Lucy Reynolds: *Prohibition, stigma and violence against men who have sex with men: effects on HIV in Central Asia*, in: *Central Asian Survey*, 32:1 (2013), p. 52-65: https://www.researchgate.net/publication/263152740_Prohibition_stigma_and_violence_against_men_who_have_sex_with_men_Effects_on_HIV_in_Central_Asia and Umedjon Ibragimov, Frank Y. Wong: *Qualitative examination of enacted stigma towards gay and bisexual men and related health outcomes in Tajikistan, Central Asia*, in: *Global Public Health* (2016): <http://www.tandfonline.com/eprint/iTngSUJNUkjnhhv8YbH/full>. Also: Maksim Kasyachuk: *Obzor svedeniy ob LGBT/MSM*

Sexual minorities and international human rights law and standards

“[Violence and discrimination based on gender identity and sexual orientation belong to] the great, neglected human rights challenges of our time [...] Governments have a legal duty to protect everyone.” UN Secretary General

Ban Ki-moon in a video message to the Oslo Conference on Human Rights, Sexual Orientation and Gender Identity

on 15 April 2013

This chapter provides an overview of international human rights law and standards relevant to the human rights of LGBT people that are central to this report: the right to be free from discrimination, the right to privacy, the right to be free from torture or other forms of ill-treatment, the right to be free from arbitrary arrest and detention, and the right to freedom of association.¹²

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 International Covenant on Civil and Political Rights (ICCPR) Tajikistan committed itself to uphold the principle contained in Article 26, which holds 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.”

While the listed grounds of prohibited discrimination included in this and other UN treaties do not explicitly include

Respubliki Tadjikistan, 2015 (unpublished).

¹² For further information about LGBT people and international human rights law and standards, refer to the document *Born Free and Equal. Sexual Orientation and Gender Identity in International Human Rights Law* that was issued by the Office of the High Commissioner for Human Rights in 2012 (<http://www.ohchr.org/Documents/Publications/BornFreeAndEqualLowRes.pdf>). Also, refer to the *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (http://www.yogyakartaprinciples.org/principles_en.htm) that were elaborated in 2006 by a group of well-known human rights experts from diverse backgrounds and regions, including representatives of UN human rights bodies. The principles provide guidance on how to apply different international human rights standards to LGBT people, e.g. with respect to non-discrimination, freedom from violence and torture, access to justice, privacy, the rights to freedom of expression and assembly, employment, health, education, public participation, and a variety of other rights. The principles affirm binding international legal standards with which all States must comply and provide detailed recommendations to States. In follow-up to the Yogyakarta Principles, the International Commission of Jurists (ICJ) compiled a comprehensive Practitioners' Guide aimed at providing judges, lawyers, and activists a detailed understanding of the legal foundations for the protection of individuals subjected to rights violations on the basis of their sexual orientation or gender identity. It examines views and positions taken by UN human rights bodies, while also drawing on the jurisprudence of regional human rights courts, as well as comparative national law and practice. The ICJ's 2009 Guide on Sexual Orientation, Gender Identity and International Human Rights Law is available at: <http://www.icj.org/wp-content/uploads/2009/07/sexual-orientation-international-law-Practitioners-Guide-2009-eng.pdf>

“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. This interpretation has been affirmed by UN human rights bodies in their jurisprudence, general comments and concluding observations (see below).

Tajikistan has also made specific commitments with regard to the principles of equality and non-discrimination as a participating State of the Organization for Security and Co-operation in Europe (OSCE).¹³ In addition, the Parliamentary Assembly of the OSCE adopted the Resolution on the Prohibition of Discrimination on Grounds of Sexual Orientation or Gender Identity in 2010, which reaffirms that “all human beings are born free and equal” and calls on participating States “to adopt legislation banning any form of discrimination on grounds of sexual orientation or gender identity” (paragraph 8).¹⁴

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 Human Rights Committee 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 Human Rights Committee also specified that States must ensure access to effective protection against any unlawful attacks on one’s honour or reputation (paragraph 11).

The right to be free from torture and ill-treatment

As a party to the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) Tajikistan committed itself to ensure 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). Tajikistan has made similar commitments as a participating State of the OSCE.¹⁵

In its General Comment No. 2 the Committee against Torture clarified that State responsibility is engaged if public

¹³ Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, 29 June 1990, Paragraph 5.9.

¹⁴ Oslo Declaration of the OSCE Parliamentary Assembly and Resolutions adopted at the Nineteenth Annual Session, Oslo, 6 to 10 July 2010: <https://www.oscepa.org/documents/all-documents/annual-sessions/2010-oslo/declaration-5/267-oslo-declaration-english/file>

¹⁵ For example, refer to Section 16 of the CSCE/OSCE’s 1990 Copenhagen Document.

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 state’s duty to do its utmost to prevent the perpetration of sexual violence, address any act of sexual violence and guarantee judicial remedies to the victims.¹⁶

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 the Special Rapporteur on torture expressed concern that sexual minorities 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).¹⁷

General Comment No. 2, issued by the Committee against Torture 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 Committee against Torture 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.

¹⁶ *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>

¹⁷ *Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, A/56/156*, 3 July 2001: <http://www.un.org/documents/ga/docs/56/a56156.pdf>

States parties are requested to identify these situations and the measures taken to punish and prevent them in their reports" (paragraph 22).

The Committee against Torture'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).

In their concluding observations the Committee against Torture and the Human Rights Committee have repeatedly reminded governments of their obligation to protect sexual minorities from torture and other forms of ill-treatment and to ensure that they have access to redress.

For example, in December 2013 the Committee against Torture urged Kyrgyzstan to "ensure prompt, impartial, and thorough investigations of all allegations of ill-treatment and torture committed by police and detention officials against LGBT persons or others on the basis of their sexual orientation or gender identity, and prosecute and, upon conviction, punish perpetrators with appropriate penalties."¹⁸

In its Concluding Observations issued to Kyrgyzstan in April 2014 the Human Rights Committee expressed concern about the failure to address violence against LGBT people by both state and non-state actors and, in addition to effectively investigating the allegations and punishing the perpetrators, urged the State party to provide adequate compensation to the victims and protect them against reprisals.¹⁹

In June 2011 the UN Human Rights Council passed the first ever UN resolution on human rights, sexual orientation and gender identity.²⁰ The resolution was adopted by a small margin but received support from Council members from all regions of the world. In this resolution, the Council expressed grave concern regarding acts of violence and discrimination committed against individuals because of their sexual orientation and gender identity. Two subsequent reports by the Office of the High Commissioner for Human Rights (OHCHR), issued in 2011 and 2015 respectively, highlighted violations targeting LGBT people in different parts of the world, reviewed the application of international human rights standards to such violations and made recommendations to governments on how to improve the protection of the rights of LGBT people in light of their international obligations.²¹ As recently as on 30 June 2016 the

¹⁸ *Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan*, CAT/C/KGZ/CO/2, 20 December 2013: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhssKfh7yyAmyM4faLdA%2FynwDCZE9T%2FSgq6BnoNR4jj7icku1hP4aRj2hIMg7bH1WIPXekXRcn6tkzWE6H%2BsmjLsd%2FMrDIBZ3rWC0v1QXfD8hx>

¹⁹ *Human Rights Committee, Concluding Observations on the Second Periodic Report of Kyrgyzstan*, CCPR/C/KGZ/CO/2, 23 April 2014: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fKGZ%2fCO%2f2f2&Lang=en

²⁰ *Resolution adopted by the Human Rights Council, Human rights, sexual orientation and gender identity*, A/HRC/RES/17/19, 14 July 2011: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/17/19

²¹ *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, Report of the United Nations High Commissioner for Human Rights*, A/HRC/19/41, 17 November 2011: <http://www2.ohchr.org/english/>

Human Rights Council “strongly deplor[ed] acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation or gender identity” and appointed an Independent Expert on sexual orientation and gender identity for a period of three years. The first mandate-holder started his work in November 2016.²²

The International Guidelines on HIV/AIDS and Human Rights that were first issued in 1998 by OHCHR and the Joint United Nations Programme on HIV/AIDS (UNAIDS) and subsequently revised and consolidated call on States to prohibit mandatory HIV tests.²³

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” and the participating States of the OSCE have also pledged to uphold this principle.²⁴

In December 2002 the UN Working Group on Arbitrary Detention took the view that the detention of individuals on account of their homosexuality constitutes arbitrary detention, and that such detention violates articles 2(1) and 26 of the ICCPR which guarantee equality before the law and the right to equal protection against all forms of discrimination. The group considered that the prohibition of discrimination on grounds of “sex” included the ground of sexual orientation.²⁵

In its General Comment No. 35 issued in December 2014 the Human Rights Committee 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).

bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf

- *Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, Report of the Office of the United Nations High Commissioner for Human Rights, A/HRC/29/23, 4 May 2015: http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E*

²² *Resolution adopted by the Human Rights Council on 30 June 2016, A/HRC/RES/32/2: http://ap.ohchr.org/documents/alldocs.aspx?doc_id=26940*

²³ See, for example, Guideline 5, 22 (j) of the International Guidelines on HIV/AIDS and Human Rights, 2006 Consolidated Version: <http://www.ohchr.org/Documents/Issues/HIV/ConsolidatedGuidelinesHIV.pdf>

²⁴ For example, refer to Section 23 of the 1989 Vienna Concluding Document and to Section 5 of the CSCE/OSCE's 1990 Copenhagen Document.

²⁵ *Civil and Political Rights, including the Question of Torture and Detention. Report of the Working Group on Arbitrary Detention, Commission on Human Rights, 59th session, 16 December 2002: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G02/160/28/PDF/G0216028.pdf?OpenElement>*

The right to freedom of association

As a party to the ICCPR Tajikistan has undertaken obligations to guarantee the right to freedom of association (Article 22). The OSCE participating States have also committed themselves to uphold this principle.²⁶

In 2009 the Special Rapporteur on the situation of human rights defenders drew attention to the intimidation and harassment of those defending LGBT rights.²⁷

The November 2011 Report of the United Nations (UN) High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity raised concerns that the governments of some countries have threatened NGOs with deregistration to curtail advocacy on sexuality and gender issues and to intimidate activists. It deplored police raids on LGBT groups and harassment of activists and the practice of “[challenging and maligning] the personal reputations of defenders who support rights related to gender and sexuality [...] including through allegations related to sexual orientation, in efforts to suppress their advocacy” (paragraph 63).

The May 2015 Report of the UN High Commissioner for Human Rights on discrimination and violence based on sexual orientation and gender identity additionally called on governments to “protect the right to take part in the conduct of public affairs, without discrimination, and ensure that LGBT and intersex persons and organizations defending their rights are consulted with regard to legislation and policies that affect their rights.”

Sexual minorities and domestic legislation

This chapter provides a brief overview of key provisions in Tajikistan’s legislation that are specifically relevant to the human rights situation of LGBT people and identifies protection gaps.²⁸

Consensual homosexual relations between male adults were decriminalized in Tajikistan in 1998. Consensual female same sex relations had never been criminalized.

Article 17 of Tajikistan’s Constitution stipulates that “[a]ll people shall be equal before the law and the court of law. The state shall guarantee the rights and liberties for every person irrespective of his nationality, race, sex, language, religious beliefs, political persuasion, knowledge, social and property status. Men and women shall have equal rights.”

²⁶ For example, refer to Sections 9 and 10 of the CSCE/OSCE’s 1990 Copenhagen Document.

²⁷ *Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, A/HRC/13/22*, 30 December 2009: <http://www2.ohchr.org/english/issues/defenders/docs/A.HRC.13.22.pdf>

²⁸ For an overview of domestic legislation and practice pertaining to human rights issues contained in this report that are not only relevant to LGBT people such as the right to be free from torture or the right to freedom of association, please refer to footnote 5 and to the following document: *Spotlight: Fundamental Rights in Central Asia. Recent developments in Tajikistan*, March 2016: <http://iphronline.org/spotlight-fundamental-rights-in-tajikistan-20160310.html>

There is no explicit mention of sexual orientation or gender identity.

The Law “On the police” envisages the protection of rights and freedoms of “every person and citizen regardless of citizenship, place of residence, nationality, race, sex, language, attitude to religion, political opinion, education, social and material situation.” As in the Constitution there is no explicit mention of sexual orientation or gender identity.

The Labour Code prohibits discrimination in the workplace. Article 7, part 1 of the Code prohibits any inequality, preference or refusal of employment based on “nationality, race, sex, language, religion, political opinion, social situation, education, property.” Sexual orientation and gender identity are not included in the list. Article 7 additionally stipulates that no limitations must be imposed on human rights in labour relations; that discrimination is prohibited and that all workers must enjoy equal rights and opportunities.

Domestic legislation does not contain anti-discrimination legislation specifically pertaining to sexual orientation and gender identity and there are no government policies or initiatives aimed at counteracting such discrimination.

The Family Code does not provide for marriage between people of the same sex. While marriage is not explicitly defined as a union between a man and a woman, Article 1, part 4 stipulates that “family relations are regulated in line with the principles of a voluntary marital union of a man and a woman”. Since homosexual people cannot legally marry one another or benefit from civil unions in Tajikistan they have no access to related social and other guarantees such as inheritance, alimony, pension and marital prison visits.

Domestic legislation provides for amending identity documents following sex reassignment surgery. Article 74, part 2 of the Law on Registering Acts of Civil Status stipulates that the relevant government agency enters amendments or additions into acts pertaining to an individual’s civil status if “a document, issued by a medical organization, is provided about sex change.” However, domestic legislation does not set out a clear mechanism of how this law should be implemented, neither does it provide for changing identity documents based on a person’s gender identity, without sex reassignment surgery.

Homophobia and transphobia: The lives of LGBT people in Tajikistan

From 1993, Tajikistan, which had become an independent state in 1991 and a full UN member in 1992, began to ratify international human rights treaties in an attempt to demonstrate its affiliation to the international community, foster cooperation and attract development aid from international players. In May 1990 the 43rd World Health Assembly of the World Health Organization (WHO) endorsed removing homosexuality from the list of diseases in the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD-10) and dozens of countries worldwide have since removed consensual homosexual relations between adults from their criminal codes. Against this backdrop consensual homosexual relations between adult males were decriminalized when the first Criminal Code of the Republic of Tajikistan came into force in May 1998 replacing the 1961 Criminal Code of the Tajik Soviet Socialist Republic that had been applied until then. Several interlocutors, both Tajikistani legal experts and civil society activists, told IPHR that, in their view, this move neither reflected increased tolerance of homosexuality in society, nor a principled commitment by the Tajikistani authorities to uphold human rights such as the right to privacy and the right of sexual minorities not to be discriminated against.

Rudaki

(or Abu Abdollah Jafar, born 858/859 - died 940/941)

is celebrated as a great national poet in Tajikistan, but public discourse makes no reference to the homoerotic elements in his poetry. When announcing the institution of "Rudaki Day" as a national holiday in 2002, to be celebrated every year on 22 September, President Emomali Rakhmon stated: "Without doubt this celebration will contribute to an increase in national pride and patriotism of today's and future generations of Tajiks and their responsibility for the development and progress of Tajikistan".***

*Statue of the Persian-language poet Rudaki in Rudaki park, located next to the President's palace in central Dushanbe.
©IPHR*



* See, for example: Sassan Tabatabai: *Father of Persian Verse. Rudaki and his Poetry*, Leiden 2010, p. 15-16 and Sarang: *Gender Identity*, p. 28-29
** Source: <http://www.narodnaya.tj/arhiv/427-2013-10-09-09-27-10>.

Homophobia and transphobia in Tajikistani society

Homophobia and transphobia are believed to be widespread and run deep in Tajikistan today although there have not been any studies to determine the actual level of these sentiments in the country. Homoerotic elements in Tajikistan's history such as in Persian love poetry²⁹ and traditions such as that of the Central Asian *bachas*³⁰ ("dancing boys") that appear to have been met with acceptance by society at the time are virtually absent from public discourse today.

Historical sources dating from the second half of the 19th century document that, throughout Central Asia, *bacha* performed love songs and danced in public places such as certain gardens and tea houses, at weddings and other important events attended by their male adorers, the *bachaboz*.

Some of the *bachas* and musicians of the Emir of Bukhara.***



The predominantly pubescent boys mostly originated from poorer backgrounds, wore long hair, dressed up in female clothes and accessories and often painted their finger and toenails red.³¹ Eugene Schuyler, an American scholar and diplomat, who travelled to Central Asia in 1873, reported: "The natives seem most pleased with those dances where the *batcha* is dressed as a girl, with long braids of false hair and tinkling anklets and bracelets. Usually but one or two in a troop can dance the women's dance, and the female attire once donned is retained for the remainder of the feast, and the *batcha* is much besought to sit here and there among the spectators to re-

²⁹ Refer to *Sarang: Gender Identity*, p. 28-29.

³⁰ Sometimes this is transliterated as "batcha".

³¹ Count K.K. Pahlen: *Mission to Turkestan*, London 1964, p. 170.

*** Source: O. Olufsen: *The Emir of Bokhara and his country. Journeys and studies in Bokhara*, Copenhagen 1911, p. 437.

ceive their caresses".³² Schuyler added that a spectator, who is "a great lover of this amusement [...] will take a golden *tilla* in his lips, and the *batcha* will put his lips to receive it [and] a kiss may perhaps be snatched."³³ Schuyler also reported that in Bukhara and other larger towns "no establishment of a man of rank or position would be complete without (a *batcha*); and men of small means club together to keep one among them, to amuse them in their hours of rest and recreation."³⁴ *Bachas* appear to have gained a certain recognition and status in society, as witnessed by Schuyler: "*Batchas* are as much respected as the greatest singers and *artistes* are with us [...] I have never seen such breathless interest as they excite, for the whole crowd seems to devour them with their eyes."³⁵ When reaching adulthood, *bachas* were typically expected to get married, have children and fulfill a male role in society, although there are accounts of *bachas* who did not move on to heterosexual relations. According to Sarang, no information is available about the social status of those belonging to the latter group.³⁶

The conquest of Central Asia by Tsarist Russia in the second half of the 19th century was accompanied by criticism of the *bacha* tradition in newspapers and journals in Russia and Turkestan.³⁷ Fighting this tradition became one of the priority items on the agenda of the Russian colonization/modernization project in Central Asia.

The Central Asian Jadids (members of a Muslim modernist movement in the Russian Empire) also opposed the tradition and condemned it as backward.³⁸ Under Soviet Rule, mentioning *bachebazstvo* became a taboo and, according to Sarang, "Soviet historians [...] erased [...] the rich homoerotic Persian/Tajik culture from the master narrative, and gradually from the smaller local/individual narratives".³⁹

In the Soviet Union homosexuality was seen as "anti-proletarian" and the tradition of *bachebazstvo* was equated with the old ruling order and deemed counterrevolutionary.⁴⁰ The 1926 Criminal Code of the Uzbek Soviet Socialist Republic, which was applicable on the territory of Tajikistan until 1935, criminalized consensual sexual acts between adult males.⁴¹ The Code also mentioned the tradition of *bachebazstvo*,

³² Eugene Schuyler: *Turkistan. Notes of a Journey in Russian Turkistan, Kokand, Bukhara and Kuldja*, London 1966, p. 72.

³³ Schuyler: *Turkistan*, p. 72.

³⁴ Schuyler: *Turkistan*, p. 71.

³⁵ Schuyler: *Turkistan*, p. 70-71.

³⁶ For further information and references to historical sources reporting about *bacha* and *bachaboz* in Central Asia as well as recent academic literature on the subject, refer to Sarang: *Gender Identity* and Latypov/Rhodes/Reynolds: *Prohibition, stigma and violence*.

³⁷ Ingeborg Baldauf: *Die Knabenliebe in Mittelasien*. Bacabozlik, Berlin 1988, p. 97-102.

³⁸ Baldauf: *Knabenliebe*, p. 102-103.

³⁹ Sarang: *Gender Identity*, p. 8.

⁴⁰ Daniel P. Schluter: *Gay Life in the Former USSR. Fraternity Without Community*, New York and London 2002, p. 121.

⁴¹ Farukh Raufov: *Istoriya razvitiya zakonodatelstva Respubliki Tadjikistan ob otvetstvennosti za nasilstvennye deystviya seksualnogo kharaktera*, in: *Probely v rossiyskom zakonodatelstve*. Yuridicheskiy zhurnal, p. 151-152: <http://cyberleninka.ru/article/n/istoriya-razvitiya-zakonodatelstva-respubliki-tadjikistan-ob-otvetstvennosti-za-nasilstvennye-deystviya-seksualnogo-harakterera>

defined it as “the maintenance of persons of male sex (bachas) for sodomy” and made it punishable by up to five years’ imprisonment, if the *bacha* was an adult, and up to eight years if he was a minor. The first and the second Criminal Codes of the Tajik Soviet Socialist Republic that came into force in 1935 and 1961 respectively retained the criminalization of consensual homosexual acts between adult males. While male homosexuality was criminalized throughout the territory of the Soviet Union, there was no mention of female homosexual relations in the criminal codes.

A civil society activist told IPHR about homoerotic elements of the *Bazmi zanon* (women’s dinner) that was reportedly celebrated in Tajikistan until about the mid 1970s. A large group of women of all ages gathered before a wedding for a party with wine and music; some women got dressed in men’s clothes and older women shared their knowledge about sex with young women who were preparing to get married. The source reported: “More experienced women shared information and practices of how women get pleasure. Those parties were also a place where women yielded to collective caresses, homosexual relations.”

The criminalization of consensual homosexual relations between adult males in the Soviet Union and in post-Soviet Tajikistan up to 1998 and accompanying homophobic propaganda campaigns continue to be key sources of homophobia in contemporary Tajikistan.

With Islamic religiosity on the rise in post-Soviet Tajikistan, Islamic homophobia is believed to be another influential source of homophobia in the country. Radio Ozodi, a Tajik and Russian language service run by the US-Congress-funded Radio Free Europe/Radio Liberty (RFE/RL), reported on 7 February 2014 that following recommendations by the State Committee on Religious Affairs, National Traditions, Celebrations and Rituals at the President’s Office, imams across Tajikistan had discussed the issue of “non-traditional sexual relations” at Friday prayers. Mufti Saidmukarram Abdukodirzoda, the head of the Ulema Council (Council of Religious Scholars), also addressed the issue during Friday prayers in the central mosque of Dushanbe, stating that Islam opposes homosexual relations, considers them to be “disgusting” and that gay men would face a “terrible punishment” on Judgment Day.⁴² The BBC Russian Service additionally reported him as criticizing Western countries for introducing legal gay marriages and opposing recommendations by human rights defenders to adopt legal amendments in order to protect the rights of sexual minorities in Tajikistan.⁴³ Some LGBT people whom IPHR interviewed were concerned that people in Tajikistan frequently cited religion as a source of their homophobia. Akmal from Qurghonteppa told IPHR: “The Koran says that Allah created all

⁴² Radio Ozodi report, 7 February 2014: <http://rus.ozodi.org/a/tajik-official-religious-leader-criticises-homosexuality/25256453.html>

⁴³ BBC Russian Service report, 7 February 2014: http://www.bbc.com/russian/society/2014/02/140207_tajik_cleric_condemns_gays

humans. If he didn't want homosexual people he wouldn't have created us. The strong homophobic sentiments in Tajikistan offend me. I am very religious. I pray five times a day. I don't kill anybody, I am a moral person!"

Many people in contemporary Tajikistan are not aware that consensual homosexual relations between (male) adults have been decriminalized and homoeroticism is commonly believed to be alien to Tajik culture and tradition. The Islamicist Arno Schmitt, who studied male-male sexuality and eroticism in Muslim countries pointed out that, at the core, it is not male-male sexual intercourse per se that is condemned by society. It is rather that when a man performs and takes pleasure in performing a passive/receiving role in sex that this is considered as unmanly, effeminate, weak and shameful. A man who has sexual relations with both women and men, maintains or is believed to maintain "superiority" in these relations and uses another man rather than experiencing pleasure, partnership or developing romantic feelings, is not considered to be homo- or bisexual and does not, typically, become the target of homophobia.⁴⁴

In Tajikistan men are usually expected to marry before their 30s and have children. Virility is seen as a crucial male characteristic, manifested through impregnation or maintaining multiple sexual relations. Women are usually expected to marry in their early 20s at the latest, have children and carry out domestic tasks. Valued female characteristics are virginity, chastity and fertility.⁴⁵ While this description reflects the beliefs of large parts of Tajikistan's society, it should not be understood as a generalization valid for all. The view that homosexuality is a contagious disease, inherited through DNA or related to evil spirits appears to be widely held.

Homosexuality or transgender identity are rarely publicly discussed in Tajikistan and when the issue is addressed in the media this is often done in a derogatory or sensationalist manner, although there have also been media reports providing information about sexual minorities in a factual way.

Honour and shame

Secular homophobia going back to Tajikistan's Soviet history and religiously motivated homophobia have mutually reinforced each other in contemporary Tajikistan. Coupled with the "honour-and-shame system" that upholds and controls gender norms in Tajikistan – but which is not unique to Tajikistan – this results in a toxic mix for LGBT people in the country.⁴⁶

According to the anthropologist Colette Harris, who studied gender relations in Tajikistan for many years, transgression or rejection of gender norms by an individual can bring shame on his or her family. It is chiefly the responsibil-

⁴⁴ Schmitt: *Male-Male Sexuality/Eroticism*, p. 1-24.

⁴⁵ Colette Harris: *Control and Subversion. Gender Relations in Tajikistan*, London 2004, p. 20, 34, 35, 74.

⁴⁶ Harris: *Control and Subversion*, p. 69-79.

ity of the male members of families as well as the older generation to ensure that all family members conform to common gender norms and other societal expectations. While heads of families occupy a powerful position in the family and are responsible for overall control, their honour is most at risk if a member of their family, irrespective of the “transgressor’s” sex and age, does not conform. The lower a family’s status in the community the more crucial is its good reputation and the harder the male and older family members will work at demonstrating that they enforce commonly accepted norms within the family.⁴⁷

To have a daughter or son whose homosexuality or transgender identity becomes known to the community is a source of great shame for families. Thus, “coming out” is not an option for Tajikistani LGBT people who do not want to expose their families to community ridicule and exclusion and who are not prepared to cut all ties with their families.



Tahmina, who emigrated to Europe several years ago, told IPHR how her family relates to her sexual identity: “When I still lived in Tajikistan I had a relationship with a woman. When she got married I couldn’t stop crying. I was ready to shoot myself. My mother understood what was happening but she hated her because she believed that she had ‘converted’ me. My father doesn’t know about me. My siblings basically accept my sexual orientation now but they don’t want me to talk about it. If others in the community found out it would spoil my family’s reputation and people would think that my nieces and nephews have something bad in their DNA.”

In those cases where families know or suspect that one of their members belongs to a sexual minority, they often put pressure on them to conform to societal expectations. Relatives try to “cure” LGBT people by sending them to medical doctors, psychiatrists, psychotherapists, mullahs or other religious figures for treatment or by forcing them to wear religious clothes.⁴⁸

Harris maintains that it is not the violation of gender norms in itself that is considered to be shameful, but of the violation becoming publicly known and talked about.⁴⁹ Several LGBT people told IPHR that some members of their families suspected or knew about their sexual orientation and appeared to accept it, but they nevertheless had to lead double lives to ensure that their family would not become the target of gossip and ridicule. Harris observed that the “tension between families and the communities they live in is occasioned largely by the former trying to preserve their secrets, while everyone else tries hard to discover anything discreditable.”⁵⁰

⁴⁷ Harris: *Control and Subversion*, p. 13, 14, 17, 24, 69-79.

⁴⁸ For further information refer to *Taynaya zhizn seksualnykh menshinstv Tadjikistana*, 4 February 2014: <http://rus.azattyq.org/a/tajikistan-gays-closeted-life/25252226.html>

⁴⁹ Harris: *Control and Subversion*, p. 74. Also refer to Schmitt: *Male-Male Sexuality/Eroticism*, p. 7.

⁵⁰ Harris: *Control and Subversion*, p. 84.



Safarali, a 40-year old gay man from northern Tajikistan, told IPHR that his neighbours have nagged his family for years to find out why they have not managed to get him married: "If a man doesn't have wife and children at my age, that's absolute nonsense for Tajikistan. My neighbours have long gossiped that I must be impotent or gay. They ridicule my brothers by saying 'do you not have enough money to marry him off? Shall we give you money?' I come from a well-established family and this talk of the neighbours irritates my brothers. I am very close to my mother and she supports me although we have never talked about my sexual orientation. My brothers said: 'We don't bother you because of our mother', but I am afraid what will happen when she won't be able to protect me anymore."

Neighbours, teachers, employers and other members of society often see themselves and act as guardians of morality and gender norms. LGBT people have reported being subjected to intimidation, physical and sexual abuse by neighbours and other members of society on many occasions.



An NGO representative told IPHR: "The relatives and neighbours of a gay man put him into a cold room, tied him to a radiator and left him there without food for a whole weekend while a mullah read prayers in order to drive out 'evil spirits'."

Several gay men told IPHR that they never feel free when walking outside since they are subjected to ridicule and intimidation on a regular basis. Unknown people have shouted homophobic insults, have called them "outcasts" or "sick" and have told them that gay people "should be kicked out of town". Some reported avoiding certain parts of their cities where they or their friends had experienced intimidation and harassment before. NGO activists also knew of cases where gay men were assaulted on the street because of their sexual orientation. Sometimes the attackers took photos or videorecorded the attacks and posted them on social media, confident that they would not be punished.

Many LGBT people and NGO representatives have told IPHR about discrimination in the workplace due to people's sexual orientation and gender identity. IPHR learnt of cases where LGBT people were dismissed from their jobs after their sexual orientation had been discovered. Others reported that if their employer found out about his or her sexual orientation this would inevitably lead to their dismissal. Those whose behaviour or appearance is not in line with common gender norms are typically unable to find regular employment.

In the same way that an LGBT family member can bring shame on the entire family when his or her sexual orientation or gender identity becomes known to the community, public discussions about LGBT people in Tajikistan are con-

sidered inappropriate in the eyes of many or possibly even as bringing shame on the country. Anya Sarang, who in summer 2015 conducted an evaluation of the national HIV program coordinated by UNDP and funded by GFATM, stated that “the Government would rather not acknowledge the existence of this group [MSM] at all”. She reported that GFATM’s funding procedures require obtaining information about the population size of the beneficiaries and UNDP tried to strike a “tactful balance” between this requirement and the government’s wish “that the visibility of the group [MSM] is (...) minimal”. “(I)t took UNDP a significant effort to minimize the official estimated MSM population size” in its reports so as not to offend the government, she maintained.⁵¹

A journalist at a media outlet in Tajikistan told IPHR that he found it very difficult to find public figures prepared to comment on his reports about homosexual or transgender people. Some government officials, who knew what he wanted to talk to them about, switched off their phones or accused him of talking about something that should not be discussed. He was not able to find anybody prepared to speak out in support of sexual minorities and believed that those who hold liberal, tolerant and understanding views are often afraid that they might be stigmatized or suspected of homosexuality themselves. While there has been some public support from a human rights point of view⁵², an LGBT rights activist told IPHR that “society generally does not think that human rights apply to LGBT people in the same way as to others and even human rights defenders are not always sympathetic.”

The lives of LGBT people in Tajikistan

“If I were free to choose I would live with my boyfriend. Now I have three children and a family.”

Daryush from Sughd region

“There are gay men who can merge with society, they play football, they look like ‘real men’, they’re exemplary husbands and family men. Then they take a short trip to another country every year and when they leave the airport there they’re totally different people.” Payyam from Dushanbe

“In the past we used to gather and socialize and it was good to laugh off all those terrible experiences of homophobia. I think people get together less frequently now, they’re afraid, they stay in very small circles.”

Parvina from Dushanbe

“Individuals who do not fall within the normative gender binary find themselves in the position where they have to choose between the two poles within this binary and either perform as men in their social/public life and uptake

⁵¹ Sarang: *Gender Identity*, p. 5.

⁵² Refer to an interview of the BBC Russian Service with Nigina Bakhrieva, head of the Coalition against Torture in Tajikistan, 7 February 2014: http://www.bbc.com/russian/society/2014/02/140207_tajik_cleric_condemns_gays

all the men's duties, or become transsexual women and leave Tajikistan. The majority chooses the first option due to family bonds and obligations." Anya Sarang, an anthropologist who studied the gender identities of male cross

dressers and transgender people in Tajikistan

This poem was written by a gay man in Tajikistan shortly before his beloved got married:

Had I been happiness, I would have made you happy; falling into your embrace I would have put you on a throne!

Had I been love, I would have made you enamoured. Joining you with the heart I would have made you true.

Had I been a poem, I would have made you the poet. Sitting beside you as your muse, I would have brought you success.

Had I been a comb, I would have combed your hair. Flitting around your hair like a butterfly.

Had I been the moon I would have made you my star. A star above my house that I would have gazed at constantly.

Had I been a fish, I would have swum in your river. I would have played with your waves.

Had I been your soul, I would not have left your body. I would stay with you forever, making you immortal.

Homophobia, transphobia and strong societal expectations along the heterosexual model make it impossible for the overwhelming majority of LGBT people to be open about their sexual orientation or gender identity without risking becoming outcasts.⁵³ The large majority try to fit in and conform to gender and social norms and expectations.

Many find spaces in their lives where they can express their sexual orientation or gender identity, and thus lead complicated double lives. Tahmina, a lesbian woman who emigrated from Tajikistan, told IPHR: "Leading a double life is like living with different masks. You wake up with a lie every day. You collect everything inside yourself. This can cause severe mental problems."

People's ability to live a double life varies greatly. Since men in Tajikistan usually have more possibilities to move about freely and unaccompanied they tend to be better able to find spaces where they can be themselves. On the other hand some social norms give lesbian or bisexual women more freedom than gay and bisexual men. For example, society will not suspect a homosexual orientation if two women walk hand in hand on the street or if they rent a flat together. Labour migration, which is particularly widespread among young Tajikistani men, provides another inconspicuous route for LGBT people to find spaces to express their sexual orientation or gender identity without being found out by their community at home.

Many young gay men from the rural regions of Tajikistan make trips to the cities in search of freedom and anonymity. Others move to the cities for the same reasons but find that economic hardship and the lack of job

⁵³ For further case examples, refer to: *Challenges and Aspirations of the LGBT Community in Tajikistan: a visit to Equal Opportunities*, 26 September 2013: <http://www.hivgaps.org/news/challenges-and-aspirations-of-the-lgbt-community-in-tajikistan-a-visit-to-equal-opportunities-2/>

opportunities often push them to engage in sex work. Several interviewees reported that they do not engage in sex work for economic reasons only but that this way of life provides them with welcome opportunities to meet other men interested in homosexual sex. Many gay young men work as waiters, cooks or dancers in clubs. Gay or bisexual men in their late twenties typically get married and start families. They often express their homosexual orientation on short trips to other cities in Tajikistan or abroad.



Alisher from Dushanbe told IPHR about discovering that he is gay and his double life as a family man: "When I was a child I knew that I was different from the others, but I only understood much later what it was. My brothers played football and liked to fight with other boys. I wasn't interested. I liked to knit and to draw. I had friends, but they weren't just friends. There was a different element in these friendships somehow. When I was in college, aged 18 or 19, I noticed that I was looking at men in a different way. I fell in love with another student. I had nobody to talk to about this. I went to Kyrgyzstan to study and got to know an older gay man who helped me understand myself better. I began to love life and I wasn't ashamed of myself anymore. I started reading on the internet, visited gay clubs and realized that I'm not the only one. When I finished my studies I returned home. Two weeks later I got married. In a way I love my wife, like a friend or a sister. I hate to keep a side of myself secret from her. And I adore my little daughter. I thought I could walk into this new phase of my life and be different. I wanted to stop seeing men and to cut all ties with the gay community, but I miss something. I stop myself. I'm afraid I might meet someone and fall in love and then I couldn't keep it all together. I don't want to divorce. I want to go to the end with my family. It feels like there is a stone on my soul."



Khurshed, a gay shop owner, told IPHR: "My first boyfriend was a senior government official in our region. He fell in love with me when I was 18. I remember how my heart was beating when he first invited me to one of his flats. He has a family, but we met on a regular basis for three years. Then my parents said I should get married, but I loved that man. When I discussed this with him I understood that he really cared about me because he said "you should get married and I will pay for half of your wedding. You should have a family and prove that you're a man. Don't talk about your sexual preferences and make sure you look like a real man, and then you won't have any problems." Now, I'm married and have a family. Sometimes I meet men through the internet and spend time abroad. I can handle this double life. I'm proud of myself. Many straight men leave their families, but I take care

of my family and I take family life seriously. I also take good care of my parents. My family doesn't suspect anything."



Daryush, a gay man from Sughd region, told IPHR: "There have been several occasions where my family talked about gays or lesbians. They say such negative things and talk about them with real disgust. I hate to hear this but I have to keep my mouth shut so as not to make them suspect about me."

Lesbian or bisexual women are often married to men chosen by their families at a young age. Many are reportedly subjected to domestic violence when husbands find out about their wives' sexual orientation. If the marriage ends in divorce, her family is likely to marry her again and she might become a wife in a polygamous marriage. When lesbian or bisexual women without financial resources of their own decide to leave their parents and/or heterosexual marriages they often end up in sex work to make ends meet. Apart from societal pressures, other factors leading lesbian and bisexual women to get married include economic hardships, widespread unemployment and particular problems of those LGBT people who do not or cannot hide their sexual orientation or gender identity when seeking employment. Homosexual and bisexual women typically meet each other through trusted private networks in private houses or flats and rarely participate in social events with other members of the LGBT "community". Married homosexual or bisexual women sometimes find ways to live double lives, meeting their female beloved secretly or pretending to be just friends.



Dresses left after an LGBT party in Tajikistan.
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Gulchekhra, a medical doctor in Dushanbe, told IPHR: "In 2016 a woman turned to me whose husband had found out that she is a lesbian. They have three children. She communicated with a girl online, that's how he found out. She told me that the husband wants to "cure" her. He constantly humiliated her, limited her in her movement, beat and raped her. I wanted to put her in touch with a lawyer, but she was afraid. I also want her to go to a psychologist. She said, I could be in touch with her via the

internet, and that she would sometimes be able to write during the night. But at some point she disappeared and didn't respond to my messages anymore. I'm worried about her."

There are very few LGBT people in Tajikistan who are not afraid of their sexual orientation being discovered. In some cases close family members and/or employers are aware of an individual's sexual orientation and accept it, but he or she is still afraid other relatives or the neighbours might find out and create a scandal.

There are no LGBT clubs or bars in Tajikistan, but there are places where gay, bisexual or transgender men can gather, e.g. certain parks (referred to as *pleshka* among members of the "community"), cafes, public bathhouses (*banya*), tea houses or restaurants whose owners are tolerant or are themselves members of sexual minorities. The internet and social media provide further spaces to be in contact with other LGBT people.

NGOs working with LGBT people, for example in the framework of HIV prevention programmes, also provide opportunities for LGBT people to socialize and be open about their sexual orientation.⁵⁴ However, there is great distrust within the LGBT "community" since many individuals collude with the police and exploit the group's vulnerability for their own financial gain and other benefits (for further information, see the chapter "Blackmail and extortion").



Parvis, a 20 year-old gay man, told IPHR what it meant to him to get to know representatives of an NGO working with LGBT people: "Already as a child I knew I was different and in 5th grade I knew that I was attracted to men, not women. I used to think that I was the only person like that, I was afraid that I was the result of a mistake by nature. There was nobody I could talk to. When I was 17 years old I met people from an NGO. That was a turning point in my life. I felt supported by similar people, I found solidarity and I was able to accept who I am."

Faced with shame and stigma those LGBT people whose relatives, neighbours and/or employers find out about their sexual orientation or gender identity usually see no other way but to cut all ties and leave the country or at least move to another town in Tajikistan to avoid finding themselves on the fringes of society. Russia, Kazakhstan and Kyrgyzstan are typical countries of destination for LGBT people from Tajikistan, although they bear their own risks for LGBT people. Some young men told IPHR that they wished they could avoid getting married with the prospect of a complicated

⁵⁴ The anthropologist Anya Sarang observed that many gay or transgender people in Tajikistan are professional dancers or simply like to dance. For many dancing is a "major site for gender expression" that they engage in when meeting in places where they feel relatively safe to express their gender identities. She pointed out that this could be seen as a continuation of the Central Asian tradition of *bachas*. Sarang: *Gender Identity*, p. 64-66. However, while young beautiful men and their dancing were openly admired and respected by the *bachabozi*, today's dancing boys are shunned by society.

double life but, instead, go to a “tolerant” European country and be “free”.⁵⁵ One man reported he would like to continue his career as a dancer in Europe, marry his boyfriend and adopt a child.



Jonnik, a gay man from Sughd region, told IPHR: “I know of a man who had sex with a gay man who collaborated with the police. The police blackmailed him, but when he couldn’t give them enough money the police showed his family a photo of what happened. He sold his house, sent his wife and children to her relatives and left the country forever. He had no other choice.”



An NGO representative told IPHR about the case of Jahongir: “In March 2013, 19-year old Jahongir told his parents about his bisexual orientation. His father got very angry and said that he would no longer consider him to be his son if he continued to engage in same-sex relations since homosexuality contradicts his religion and he does not want to be dishonoured in the eyes of the community because of such a son. Jahongir argued and explained but his father beat him so badly that he was unable to go to work for a whole week. After that he returned to his work place although some bruises were still visible because he had to earn money. Another time his father discovered that Jahongir worked as a dancer in a night club and beat him up in the changing room. The next day his parents kicked him out of the house and told him to go to another town and leave everything behind.”

IPHR was also told of cases where LGBT people could not cope with the intimidation and abuse they faced in their communities and committed suicide.⁵⁶

⁵⁵ Also refer to the news report: *Homophobia Endemic in Tajikistan, Kyrgyzstan*, 2 February 2012: <https://iwpr.net/global-voices/homophobia-endemic-tajikistan-kyrgyzstan>

⁵⁶ Also refer to the news report: *Dvoynaya zhizn geyev Tadjikistana*, 1 December 2015: <http://www.dialog.tj/news/dvoynaya-zhizn-geev-tadjikistana> and <http://www.currenttime.tv/a/27398095.html> and <http://www.currenttime.tv/a/27398095.html>

Here is a list of media reports about the situation of LGBT people in Tajikistan since 2011.

Most of them are not available in English:

- **Pravozashchitniki khotyat pomoch geyam Centralnoy Azii, BBC Russian Service, 5 April 2011:** http://www.bbc.com/russian/society/2011/04/110405_central_asia_gays_monitoring.shtml
- **Homophobia Endemic in Tajikistan, Kyrgyzstan, IWPR, 2 February 2012:** <https://iwpr.net/global-voices/homophobia-endemic-tajikistan-kyrgyzstan>
- **Tadzhikistan ostayetsya "adom dlya geyev", 20 January 2013:** <https://ru.globalvoices.org/2013/01/20/21059/>
- **Taynaya zhizn seksualnykh menshinstv Tadzhikistana, Radio Azattyq, 4 February 2014:** <http://rus.azattyq.org/a/tajikistan-gays-closeted-life/25252226.html>
- **Tadzhiksky muftiy osudil geyev vo vremya propovedi, BBC Russian Service, 7 February 2014:** http://www.bbc.com/russian/society/2014/02/140207_tajik_cleric_condemns_gays
- **Lider musulman Tadzhikistana osudil netradicionnye seksualnye svyazi. VIDEO, Radio Ozodi, 17 February 2014:** <http://rus.ozodi.org/a/tajik-official-religious-leader-criticises-homosexuality/25256453.html>
- **Dvoynaya zhizn tadzhikskikh geyev i lesbiyanok, BBC Russian Service, 10 March 2014:** http://www.bbc.com/russian/society/2015/03/150310_tajikistan_gays
- **Transgender in Tajikistan, IWPR, 12 May 2014:** <https://iwpr.net/global-voices/transgender-tajikistan>
- **V Dushanbe sygrali svadbu geyev. VIDEO, Radio Ozodi, 4 June 2014:** <http://rus.ozodi.org/a/25409973.html>
- **Tadzhikskiy geyev khotyat poluchit ubezhishche za rubezhom, Radio Ozodi, 17 April 2015:** <http://rus.ozodi.org/a/26962808.html>
- **Dvoynaya zhizn geyev Tadzhikistana, Nastoyashcheye vremya, 1 December 2015:** <http://www.dialog.tj/news/dvoynaya-zhizn-geev-tadzhikistana> and <http://www.currenttime.tv/a/27398095.html>
- **Living in someone else's life. The story of a transgender woman from Tajikistan, Ferghana.ru, 14 November 2016:** <http://enews.ferghananews.com/articles/2976>
- **Tadzhikskiy geyi: istoriya „oderzhimogo besami“, BBC Russian Service, 3 May 2017:** <http://www.bbc.com/russian/features-39792258>
- **Gomoseksualisty v Tadzhikistane: legche byt narkomanom, chem geyem, Open Asia, 17 May 2017:** <http://theopenasia.net/articles/detail/gomoseksualisty-v-tadzhikistane-legche-byt-narkomanom-chem-geem/>

TRANSGENDER PEOPLE

Those Tajikistani transgender people who do not feel at home in their bodies and wish to change sex are in a particularly difficult situation. Along with those transgender people who do not want to make the physical transition, they struggle with stigma and discrimination and are at great risk of becoming outcasts.

Only very few people have been able to undergo sex reassignment surgery in Tajikistan.⁵⁷ A transgender person told the Central Asian news agency *ferghana.ru* that when she asked several endocrinologists in Tajikistan if they could perform the surgery on her, they declined and reportedly referred to the absence of the necessary legislation.⁵⁸ Most transgender people leave Tajikistan and, reportedly, typically go to Georgia, Iran, Kazakhstan, the Russian Federation, Thailand, Ukraine, the United Arab Emirates or Uzbekistan, where sex reassignment surgery is available.⁵⁹ Many end up in sex work to earn money for the necessary hormones, medical assistance and surgery.



Mila, aged 40, told the Central Asian news agency *ferghana.ru* about her life as a transgender person in Tajikistan and her decision to undergo sex reassignment surgery in Ukraine:⁶⁰ "When I was 10 years old I liked everything girlish. I wanted to wear dresses. In school I wanted to be with the girls [...] and when we were on our own I behaved like a girl. At home, of course, I turned into a different person so that the parents wouldn't suspect anything. When I grew up [...] I repressed my 'female manners' and convinced myself that I have to live up to my male appearance [...] Last year [...] I heard about hormone medication for the first time [Since I could not find an endocrinologist in Tajikistan who would treat transgender people] I bought hormone pills [...] and took them as recommended by other trans people. When my physiological appearance and my voice began to change, that's when the real problems started with other people [...] The worst was that my whole family turned away from me [...] I understood that I won't have a life here if even those who were closest to me turned away from me. I was totally alone with my problems [...] I met no other transgender people in Tajikistan although I was told that such people exist in Dushanbe, but they lead a very hidden life [...] I had thoughts about suicide. I made several attempts to find work, but when they looked at my passport they asked: 'Is this you?'

⁵⁷ *Za 10 let v Tadjikistane provedeno 3 operacii po smene pola*, 25 July 2014: <http://rus.ozodi.org/a/25469846.html> and <http://iwpr.net/report-news/transgender-tajikistan>

⁵⁸ *Living in someone else's life. The story of a transgender woman from Tajikistan*, 14 November 2016: <http://enews.ferghananews.com/articles/2976>

⁵⁹ This information is based on information obtained from LGBT people in Tajikistan and the following sources:
- Sarang: *Gender identity*.
- *Living in someone else's life. The story of a transgender woman from Tajikistan*: <http://enews.ferghananews.com/articles/2976>

⁶⁰ See above.

told them honestly that this is me, that I'm a transgender (and) they tried to get rid of me as soon as possible. I stayed at home, sowed and earned some money through the internet. I needed expensive hormone medication, so I had to sell my tableware to an antique shop [...] This summer when I had already decided that I wanted to undergo a sex reassignment surgery [...] I went to (several) private clinics, begged them, cried, but everywhere they told me the same: we can't do that, there're no laws [...] I heard about organizations defending the rights of LGBT people. [There] they recommended me to move to Georgia or Ukraine and I chose Ukraine [...] And now I'm here, in Kiev. I arrived on 18 September [2016]. There are a lot of private clinics in Kiev that do the surgery [...] Finally, at the beginning of November, I really became a woman, something I had dreamt about since childhood [...] I went against the stereotypes of society. This is my life. Why should I change my decision just to please other people, who really couldn't care less about me? [...] But I am sad because my mum, the person closest to me [...] has still not accepted me [...] I'm not using my real name now because of my relatives back in Tajikistan [...] I understand that it wasn't easy for my mother when the neighbours gossiped and asked all the time: "Is it your son's bride who visits you or your sister?"

Transgender people often encounter specific problems in their contacts with government officials. Some have reported intimidating behaviour by border guards when they tried to leave Tajikistan.



Nodira, a Tajik woman who was born as a biological male, told the representative of an NGO in Tajikistan: "I travelled to Moscow several times for medical treatment and a sex change operation, but I didn't have a passport reflecting my gender identity. I had tried to get one, but the authorities refused. So, every time when I turned up at the airport the border guards made fun of me. Sometimes they searched me on the pretext of looking for drugs. I even had to undress. This was very humiliating."

Without a valid passport where the indicated name and sex are consistent with the person's appearance it is usually impossible for transgender people to find a legal job, open a bank account, study at university or vote and they may encounter problems with border guards when they wish to travel abroad.

As mentioned in the chapter on domestic legislation above, Tajikistani legislation allows for amending identity documents based on a medical certificate confirming sex reassignment surgery, but it does not allow for such amendments based on gender identity alone. However, an NGO representative told IPHR of a person in Tajikistan, who was able to obtain new identity documents reflecting her gender identity although she – a biological male - had not undergone sex reassignment therapy.

There is no clear mechanism by which transgender people can obtain new identity documents. As a result, changing one's identity document can be a lengthy, cumbersome and expensive process. An NGO representative described what transgender people do when attempting to get a new passport in the absence of clear regulations in domestic law: "People who are born as a biological male, but who feel like a female, have to get a medical certificate stating that they are a woman. You go to doctors who examine whether you are a virgin, whether you had sexual contact with men. You go to a psychiatrist certifying that you have a female gender identity. You also have to go to the state registration office where you get documents to apply for a name change. This request has to be approved by the court and once you have the court decision your passport can be changed. All of this can be very humiliating because you encounter a lot of people, including officials, who think you are crazy. It is also very expensive when you take into account that everybody wants a 'special fee' for their service."



In October 2012 Alexander was diagnosed with "transsexualism" by the Republican Clinical Center of Psychiatry in Dushanbe.⁶¹ In January 2014 he underwent sex reassignment surgery in the Madadi Akbar hospital in Dushanbe. With the help of a lawyer cooperating with the NGO Coalition against Torture in Tajikistan Sandra (formerly Alexander) was able to obtain a new birth certificate and passport reflecting the sex change, but it was a difficult process. First, her lawyer asked the Civil Registration Office in Sandra's district in Dushanbe (ZAGS) to provide him with a list of documents required for the sex change to be reflected in Sandra's identity documents. The Office responded that they had never registered transgender people before and that such a procedure does not exist. Only when the lawyer complained to the court about the authorities' refusal to reply to the lawyer's questions, did a representative of the Civil Registration Office tell him that they needed a medical certificate from the Ministry of Health. Subsequently, the Ministry of Health appointed a forensic medical commission and after Sandra was examined by a urologist confirming the sex change, the Civil Registration Office issued her with new identity documents.

⁶¹ For further information about Alexander/Sandra, refer to the IWPR report: *Transgender in Tajikistan*, 12 May 2014: <https://iwpr.net/global-voices/transgender-tajikistan>

Police: Beating, raping and exploiting LGBT people

Homosexuality is legal in Tajikistan and there are no laws, which allow police to target LGBT people unless they have broken the laws that apply to all people in the territory of Tajikistan.

However, there are indications that the Ministry of Internal Affairs or its representatives move beyond the legal framework and have added the fight against homosexuality to their legally sanctioned work against crimes and offences covered in the sections on public order and morality in the Criminal Code and the Administrative Code of Tajikistan. Some NGO activists IPHR met during the research visit to Tajikistan alleged that unpublished internal instructions of the Ministry of Internal Affairs tasked officers of the departments dealing with crimes and offences against public order and morality — that are represented in all parts of the country — with conducting preventive work to combat the “spread of homosexuality”. A human rights activist working for a Tajikistani civil society organization that does not work on LGBT issues told IPHR that during a meeting at the Ministry of Internal Affairs in the first half of 2014 a senior official refused to provide a copy of the internal instructions but explained that the Department had a duty to counteract the spread of homosexuality.

At a press conference held by the Ministry of Internal Affairs on 18 July 2014 on the results of its work in the first six months of 2014, it provided statistics of its fight against “amoral crimes, prostitution and procurement”. In the list of crimes and offences the Ministry included “homosexuality and lesbianism”.⁶² In subsequent years the Ministry did not publish any such statistics about the results of its work against “crimes against morality”.

At a Special Meeting on 5 June 2014 Interior Minister Ramozon Rahimzoda instructed the relevant agencies of the Ministry to “conduct special raids across the Republic to identify individuals engaged in prostitution, procurement and the running of brothels”. He said that it was necessary “to enter all those detained on suspicion of engaging in crimes against morality, with their photographs in electronic format, into a special register of the Ministry of Internal Affairs.”⁶³ Subsequently, police forces carried out a series of night time raids in Dushanbe affecting hundreds of sex workers, among them LGBT people, and there were allegations that some or many of the LGBT people targeted were not engaged in sex work.⁶⁴ According to civil society activists who documented cases of human rights violations that took place during the raids, numerous people were arbitrarily detained without access to lawyers, they were registered in

⁶² *Press-konferenciya v MVD*, 18 July 2014: <http://vkdt.tj/old/index.php/ru/glavnaya/4585-press-konferentsiya-v-mvd> (accessed 2 February 2017).

⁶³ *Operativnoye soveshchaniye pri Ministerstve vnutrennikh del*, 5 June 2014: <http://vkdt.tj/old/index.php/ru/glavnaya/4164-operativnoe-soveshchanie-pri-ministre-vnutrennikh-del> (accessed 2 February 2017).

⁶⁴ Similar raids also took place in Qurghonteppa.

police databases and there were credible reports of beatings and sexual abuse by police. Many reported being forced to undergo tests for sexually transmitted diseases.⁶⁵

On 12 June 2014 the press service of the Ministry of Internal Affairs reported that from 6 to 10 June police had identified 505 prostitutes and a number of people suspected of committing crimes/offences against morality. It stated that three people were taken to agencies of the Interior Ministry to “take the necessary measures for homosexual behaviour”.⁶⁶ The press service added that police took finger prints and photos of many of those detained and had them tested for sexually transmitted diseases in dermatological and venereological clinics in Dushanbe.⁶⁷

At the Special Meeting on 5 June 2014 Ramozon Rahimzoda also ordered that “from now on those detained for [amoral] crimes will undergo a medical examination to check for venereal diseases such as HIV/AIDS, syphilis, gonorrhoea and other sexually transmitted diseases and they will be registered in the database of the Ministry of Internal Affairs with fingerprints.” In addition, he suggested amending the Family Code of Tajikistan to ensure that, before getting married, citizens can apply to the Interior Ministry to check the record of their future wife (husband), but no such amendments have been added to the Code.⁶⁸ The International Guidelines on HIV/AIDS and Human Rights that were jointly issued by OHCHR and UNAIDS stipulate that the “interest in public health does not justify mandatory HIV testing or registration, except in cases of blood/organ/tissue donations” and the duty of the state to protect the right to privacy includes the obligation “to ensure that no testing occurs without informed consent, that confidentiality is protected [...] and that information on HIV status is not disclosed to third parties without the consent of the individual”.⁶⁹

Police pressure against LGBT people peaked during the raids in 2014, but cases have continued to be reported on a regular basis. IPHR and local NGOs recorded dozens of credible cases of police intimidating, physically or sexually abusing and arbitrarily detaining LGBT people in recent years. They learnt of numerous cases where police exploited LGBT individual's vulnerability which stems from the strong homophobia and transphobia in Tajikistani society, threatened to disclose their sexual orientation or gender identity to families, neighbours or employers and extorted money from them.

⁶⁵ Refer to the news report *Pravozashchitniki obratilis k glave MVD Tadjikistana po povodu massovogo zaderzhaniya prostitutok*, 19 June 2014: <http://news.tj/ru/news/pravozashchitniki-obratilis-k-glave-mvd-tadjikistana-po-povodu-massovogo-zaderzhaniya-prostitut-0>. Further information about the police raids is included in an unpublished report jointly produced by the Global Network of Sex Work Projects (nswp) and the Sex Workers Rights Advocacy Network (SWAN), entitled *Analytical Report on the results of the research, which was held in Tajikistan, in 2014 year*.

⁶⁶ *Meropriyatiya v borbe s npravstvennymi prestupleniyami*, 12 June 2014: <http://vkd.tj/old/index.php/ru/glavnaya/4241-meropriyatiya-v-borbe-s-npravstvennymi-prestupleniyami> (accessed 2 February 2017).

⁶⁷ *Meropriyatiya v borbe s npravstvennymi prestupleniyami*, 12 June 2014: <http://vkd.tj/old/index.php/ru/glavnaya/4241-meropriyatiya-v-borbe-s-npravstvennymi-prestupleniyami> (accessed 2 February 2017).

⁶⁸ *Operativnoye soveshchaniye pri Ministerstve vnutrennikh del*, 5 June 2014: <http://vkd.tj/old/index.php/ru/glavnaya/4164-operativnoe-soveshchanie-pri-ministre-vnutrennikh-del> (accessed 2 February 2017).

⁶⁹ Refer to the paragraphs 120 and 121 in chapter C *The application of specific human rights in the context of the HIV epidemic*.

Many NGO activists have reported that officers of the Interior Ministry's Departments tasked with fighting crimes and offences against morality are frequently implicated in extortion and other types of abuse and IPHR documented several cases where this was the case. Ordinary police from district or city police stations are also reported to engage in such activities.

Several NGO representatives told IPHR that police intimidation and abuse are problems gay/bisexual men are mainly faced with in cities. In the rural regions they usually keep their sexual orientation secret and local police rarely find out about them. Thus the police's ability to add to their income by blackmailing homosexual and bisexual men is a side effect of the relative freedom and anonymity that LGBT people enjoy in cities.

There are also allegations that police sometimes accuse LGBT people of "prostitution" under Article 130 of the Administrative Code of Tajikistan or cite other legislation contained in the sections on crimes and offences against public order and morality of the Criminal and Administrative Codes of Tajikistan (see below for a list of relevant crimes and offences), regardless of whether they have actually violated these laws. Police officers reportedly often refer to these laws to extract money for their personal financial gain or to force LGBT individuals to become police informers. The failure of the police to act strictly within the framework of the law does not only apply to LGBT sex workers, but in these cases police often express homophobic or transphobic attitudes and exploit their specific vulnerabilities.



Sex work: relevant crimes and offences in the Criminal and Administrative Codes of Tajikistan

The organization or maintenance of brothels, procurement for personal gain and pimping (Article 239 of the Criminal Code of Tajikistan) are punishable by a fine or a maximum of five years' imprisonment. Engaging minors in prostitution is punishable by corrective labour or imprisonment (Article 166 of the Criminal Code). Prostitution is classified as an administrative offence in Tajikistan and, at the time of writing, was punishable by up to 1000 TJS (approx. 120 EUR) (Article 130 of the Administrative Code of Tajikistan). If a person continues to engage in prostitution and is caught again within a year of being fined under Article 130, he or she is fined up to 2000 TJS (approx. 240 EUR) or subjected to administrative arrest of ten to 15 days. Police can also apply Article 460 of the Administrative Code, punishing "minor hooliganism", for example when people engage in sex in public places.

Blackmail and extortion

“For many police officers LGBT people are simply a source of income.” Safarali from Northern Tajikistan

“When the police caught me and threatened to tell my family I was dead scared but I wasn’t ashamed of myself. I know I’m not a bad person, I love my country, my people. But I feel shame for those officers who behave in such an inhuman way.” Sukhrob from Dushanbe

“I know many gay men who were blackmailed by police and were very afraid: ‘What shall I do? Kill myself, throw myself off a bridge?’ I know people who took out a loan from the bank so the police would not tell their family.” Jonnik from Khujand

“Tajikistan is a corrupt state and that has its positive sides. I’m not afraid of the police because I have money, so I know they won’t tell my family.” Akmal from Qurghontepa

“I never had problems with the police. I have former boyfriends up in the hierarchy and I can rely on them.” Khurshed from Kulyab

As many LGBT people in Tajikistan lead double lives they have much to lose if their wives, husbands, parents, other relatives, neighbours, teachers or employers find out about their sexual orientation or gender identity. Many police officers exploit this vulnerable situation to blackmail them and extract money for their own financial gain.

Interviewees from Dushanbe, Khujand, Kulyab and Qurghontepa have all pointed out that such police behaviour is widespread in their cities, particularly targeting homosexual/bisexual men, and IPHR learnt of numerous cases confirming that this is a common pattern.



Sukhrob, who is married and has a young child, told IPHR how police threatened to tell his family that he is gay: “It happened last winter as I was walking home from work. There’s a large park not far from my home and a man approached me. We got into a conversation. He made allusions and I thought, maybe he’s also like that. I felt a temptation. Suddenly, two other men came. They talked to me in a rude way and made fun of my clothes, although there was nothing unusual about them. Then they showed their police IDs and I got very scared. It turned out that the first man worked with them. Then four or five other police officers turned up. They took my phone, found photos of men and correspondence and understood everything. They laughed at me, said offensive things about gay people being a plague to society and that we should be got rid of. I tried to run away, but they caught me and dragged

me to their car. They threatened to take me to the police station and tell my family that I'm gay. I offered them money, but I had less than USD 50 on me and they wanted more. Then they drove me to my house, kept my passport and told me to go upstairs and get more money while they were waiting. I did as I was told, gave them more money and they left, but I was so scared, I felt like leaving the country.

I'm still scared. They know where I live."



Daryush from a town in southern Tajikistan became the victim of police blackmail. He told IPHR: "An acquaintance of mine, a young gay man, was caught by the police. He called me and asked to come and help him get released. He told me where I should go but when I left my house several men were waiting for me. They showed their police IDs. They took me to the police station without a warrant. Then they accused me of being gay and threatened to tell my family about my sexual orientation unless I gave them \$400. They also threatened to tell the local police in the area where I live. That means that the local police would call me for questioning and the whole neighbourhood would know. First I refused to pay, but when they said they would fabricate a case against me and get the young man to testify that I raped him, I had no other choice. I took out a loan from the bank and paid the money."

Police officers interested in extorting money from sexual minorities use various methods to identify wealthy targets, and entrap them. A common approach appears to be that police make contact with young homosexual/bisexual men from poorer backgrounds, with little education and legal knowledge, who moved to the city in search of freedom and anonymity and are engaged in sex work. Police hope that these men would work for them as informers and lead them to rich gay or bisexual men with families, jobs and reputations to lose. Based on interviews with members of sexual minorities, IPHR has documented numerous cases where police officers approached such men in public places where they are known to gather, such as certain parks, tea houses or cafes, and confronted them with a mix of threats and incentives.

Sometimes police would pose as ordinary clients and have sex with the potential informer before talking about cooperating in extorting money from rich gay or bisexual men. Police typically threaten the potential informer that they will tell his parents of his sexual orientation. Sometimes officers exploit the young men's lack of legal knowledge, pretending that homosexuality is still criminalized and threaten to open a criminal case against them. Sometimes police use violence or threats of violence to pressurize gay or bisexual men to become informers.

IPHR was told of cases where police officers offered to protect gay or bisexual men from problems with other law

enforcement officers in exchange for helping them to entrap rich gay/bisexual men. Usually, gay or bisexual informers receive a percentage of the money that the police officers extort from the victim. Some gay or bisexual men and NGOs dealing with sexual minorities told IPHR that police sometimes rent apartments and offer them to young men for sex work. The officers then wait in the vicinity of the flat and carry out a raid where they take photos or videos that they subsequently use to blackmail the client.

Police also often put pressure on gay or bisexual men to provide the police with “evidence” of homosexuality that police can use to blackmail their targets.



Sadriddin told IPHR that police had tried to extract information from him and his friend in order to blackmail another gay man: “In 2014 the police detained Alijon and me and forced me to admit that I had sex with a certain man from our region. They put pressure on Alijon and forced him – under threats – to tell them where the man lives. Then they went to that man, told them what they had found out about him and threatened they would tell his family. He sold his car, his cows and his horse to make sure the police won’t talk.”



Parvis told IPHR how police arbitrarily detained him and his friend and tried to turn them into police informers: “In 2015 my cousin, a boy aged 14, was held at our local police station in connection with a car accident. He called me and asked to come and help him get released. I went there with some friends and after taking care of the paper work they released the boy, but then the police refused to let one of my friends go. I asked the police why they kept him there and wanted to make a phone call, but they took my phone away and looked at it. They asked me: ‘Are you a dancer, are you gay?’ And they threatened to do an anal examination if I didn’t tell them. A senior officer took me and my friend to his room and said offensive things, asked how we have sex, whether we play the active or the passive role. And then he said we should cooperate with him, that we would have a quiet life. They kept us in the police station for six hours. Eventually we said we would work with him. Then he let us go, but we threw away our sim cards because we didn’t want anything to do with the police.”

Civil society activists and gay/bisexual men told IPHR that sometimes police officers themselves make contact with gay/bisexual men through the internet, posing as gays, and start blackmailing them when they meet. There are also

reports of police bursting into hotel rooms rented by gay or bisexual men and threatening to inform their families about their homosexual relationship.



IPHR learnt of the following case: In March 2011 Ramazon and Kurbon met each other in a hotel room. Suddenly three policemen reportedly entered the room, accused them of prostitution and took them to the police station. There police threatened to conduct anal tests and inform their parents of their sexual orientation unless they admit to prostitution or unless each man gave the police USD 200. Eventually, after paying USD 100 and giving the officers their mobile phones they were taken back to the hotel.

A civil society activist reported cases where police verbally abused lesbian sex workers because of their sexual orientation and extorted money from them, in exchange for letting them continue to go about their “business”.

Several NGO representatives told IPHR that police officers had approached their organizations and tried to obtain the contact details of wealthy LGBT people. The representative of a Dushanbe NGO working with gay and bisexual men in the context of health prevention work told IPHR that police had come to their office and asked for contact details of men aged over 25: “Of course, we didn’t give them any contact details since it’s clear they just want to milk them like cows.”

NGO representatives and gay/bisexual men told IPHR that the amounts that police extort depend on the financial means of the target. Amounts roughly range from the equivalent of one hundred to several thousand USD. When police target a poorer man, he can sometimes get away with paying less.

Intimidation, arbitrary detention, physical and sexual abuse

IPHR documented a series of cases where police subjected LGBT people to threats, intimidation, arbitrary detention and physical and sexual abuse in recent years. This chapter gives several case examples of such police pressure.

IPHR learnt of some cases where police intimidated LGBT people and threatened them with public exposure unless they gave them money. In one case a police officer reportedly threatened to shave a man to punish him for his homosexuality, claiming that this was an appropriate punishment for homosexuality in Islam, and to ridicule him in public.



Akmal from Khatlon region told IPHR about an incident when police arbitrarily detained him and his friend and threatened to publicly expose their sexual orientation: “I met a friend of mine to discuss

some family problems. Suddenly two men in plainclothes ran up to us and told us to come to the police department. They knew that my friend is gay because a man he had sex with gave the police a video recording that proves it, but they didn't know anything about me. They had no warrant, but they took us anyway saying 'what, you are gay and you still ask if we have an arrest warrant?' When we got to the police station the head of the police station asked me: 'Did you have sex with him? Since when have you been sick with this illness?' They took away our mobile phones and searched my bag. They said that homosexuality is illegal and when I asked them to show me the Article in the Criminal Code, they showed me the Article for rape. Then they said they would get a doctor to examine our anuses and tell the media. At that point I understood that they wanted to scare us and get money from us. So, when they asked me whether my family know I'm gay I said 'yes', although that isn't true. Eventually, after spending five hours in custody, they let me go, but my friend told me that a senior officer wanted to have sex with him, although he had said earlier that a Muslim doesn't do such things. The officer reportedly also told him: 'I'll rent a flat for you, you'll be my wife and you'll have clients and we'll share the money.'"

Civil society organizations and LGBT people told IPHR that threatening LGBT people with physical violence is a common police approach. Below are two case examples obtained by IPHR during the research mission in October/November 2016.



Jasur, a medical student and NGO activist from Dushanbe, told IPHR how police threatened him and his friend with beatings: "One evening my friend phoned me sounding sad and asked me to meet him. I knew he was going on a date with a man that evening. When I opened the door of the car where he said I should meet him, he looked unhappy. There were two men with him in the car. The driver told me to sit down and as soon as I was inside the doors were locked. Then the driver said: 'Do you know that your friend has the gay illness? Maybe you have it too! Do you know that's a crime?' I told him that it's not a crime, but then one of them showed his fist and threatened to beat me. They said they were policemen, showed us their police IDs and asked for our passports. They threatened to call my university, tell them I'm gay and make sure I'd be expelled. They continued talking like that as they drove us through Dushanbe. After about two hours they started saying that if we found a gay man whom they can extract money from we could also earn some money and they would let us go. They told us to use social media and find a rich man older than 30 for them. Eventually, at around midnight, they let us go.

They had held me for a total of seven hours!"



Jasur recalled another incident when police arbitrarily detained and threatened to beat him: "In 2014 I was on a cruiser place in the Shohmansur district of Dushanbe conducting outreach consultations about health and other issues. I was talking to a client, a gay man. We saw other people belonging to the community and greeted them. Soon afterwards two police officers came, big, strong men, and told us to go with them. They took us to Dushanbe City Department of Internal Affairs and threatened to beat us because of our sexual orientation. We were scared. When we arrived at the police building my client managed to run away and dropped the hygiene package that I had given him from our organization that contains safe condoms. The officers were furious. They took away my phone, looked at my contacts and said they would beat me if I didn't tell them which of my contacts were gay. Then they wrote down several numbers and let me go. I called the friends whose numbers the officers had copied and warned them not to pick up the phone. The client who managed to escape was so scared that he didn't leave his home for several months."

IPHR was also told of cases where police subjected LGBT people to arbitrary detention and physical abuse including beatings and electric shocks. In some cases police used violence to extract information from LGBT people for the purpose of extortion and in other cases they were ill-treated when being investigated for alleged administrative offences or crimes.



Alijon from Khatlon region told IPHR that he and two friends were arbitrarily detained by police in the summer of 2016 and his friend was beaten: "We went to a disco and were driving back to our home town through villages and fields. Then police stopped us. They thought we wanted to steal cows. When they took us to the police station they understood that we were gay and started making fun of us. Then they said we should cooperate with them, find rich gay men and make money. We said no and my friend argued with them a lot. They didn't like that and started beating him and they said that all gay people should be burnt. They made us stay at the police station. When they let us go they took our phone numbers, but we don't answer our phones when we see their numbers."



An NGO representative told IPHR about the case of Hasan, a gay man who was reportedly beaten by police officers in Dushanbe in order to get him to provide information about a senior government official who had allegedly paid gay men and boys for sex: "In July 2010 Hasan got a phone call from a man

claiming to be a police officer who told Hasan to come to the police station. Hasan did not go as he had not received an official summons and the man had refused to explain what he wanted to discuss with Hasan. Hasan went to work and in the afternoon two police officers came and asked him to accompany them to the local police station. He went because he did not want to talk to the officers in front of his colleagues. At the police station he was asked to wait together with a group of young gay/bisexual men, whom he recognized as people who had had sex with a senior government official, whom Hasan had known for a long time. Hasan had to wait for several hours until a senior police officer called him for questioning. Reportedly, the officer wanted to find out what Hasan knew about the government official's sexual relations with gay men. When Hasan replied that he did not know the person, the officer said that this was a lie, that Hasan had had sexual relations with that man himself and that the police would inform Hasan's parents and his employer of his sexual orientation unless he told the police what he knew. When Hasan still refused to cooperate the officer reportedly kicked him in the belly, Hasan fell on the floor and the officer continued beating him. When Hasan insisted that he knew nothing about the man, police officers took him to another room, where several of the other gay men were sitting. One of them had been able to keep his mobile phone. Hasan called an influential friend who came to the police station and managed to get him out. This friend reportedly knew about the issue the police was interested in and told Hasan the names of the gay men who had given the police Hasan's contact details and told them of his connections with the senior government official."



Damir told IPHR about an incident in 2012 when police used electric shocks on him and ill-treated him and his friends to extract information about an older man whose flat they were using for sex work: "In 2012, when I was 16 years old, I was in a park in Dushanbe with my friends. We began to dance and behave quite freely. Then two men came. They were plainclothes police officers, but we didn't know that yet. They offered us 120 Somoni for sex. My friend and I agreed and we called an older friend of mine and asked if we can go to his flat. He agreed and came to give us the keys and the two of us and another friend went to the flat with the two policemen. But in the flat the policemen got out some pot and didn't seem interested in sex anymore. One of them was standing in the corridor, with his back to the door of the flat. Suddenly the owner of the flat opened the door from the outside. He didn't do this on purpose, but the policeman fell on the floor. After that they beat us, dragged us downstairs and told all neighbours whom they met on the staircase that we were gay. Then they put the four of us into

separate cars and told us that if we gave them USD 100 each they would let us go. When we arrived at the local police station they started questioning us. They wanted to get evidence from us that the older man had let us the apartment for prostitution. When one of my friends complained and talked about his rights they stuck his head in the toilet bowl. They asked me if the older man, who had lent us the flat, was also gay and they wanted me to say that he is a pimp. They stuck my hands in a bucket filled with water, attached electrodes to my fingers and turned on the electricity and after that they continued beating me. Eventually they let us all go. The older man said he had to pay 4000 Somoni.”⁷⁰



Sobir, a gay man who works for an HIV prevention NGO, told IPHR that he was arbitrarily detained and beaten by police in Dushanbe: “I live with my parents, but they don’t know about my sexual orientation. I was detained by police three times in 2015 and, most recently in the summer of 2016, and taken to different police stations in Dushanbe. Every time they took away my mobile phone and they took a copy of my passport and said they had to register me. Every time they tried to force me to work with them. And every time they made fun of me and said offensive things. They called me “beauty, a looker!”, and even the head of one of the police stations joined in. And they beat me. Afterwards I tried to get my mobile phone back, but they never returned it.”



Daler, an NGO worker in Dushanbe, told IPHR that his friend Shavkat was beaten by police in a park in Dushanbe after having sex with an alleged police informer: “Shavkat was walking along Sakhova Park in Dushanbe as he was approached by a man at the gate. He invited him to walk in the park together. It’s a large park with a small river and it has some secluded, dark places. The man began to kiss Shavkat and eventually they had sex. Suddenly seven police officers came and started filming the scene. The police officers said: ‘We must kill you. What you just did is a great sin in our religion!’ Then they beat Shavkat, not the other man and we think that man probably worked for the police. Eventually, Shavkat gave the police money and they let him go. But before that an officer asked him to become his boyfriend and told him that he would protect him. He took Shavkat’s number, but when the policeman called, Shavkat shouted at him and switched off his phone. He didn’t want to get entangled with a police officer and be used as an informer.”

⁷⁰ The equivalent in Euros at the time was EUR 660.



Parvis told IPHR that police applied electric shocks to him and forced him to put them in touch with a rich gay man: "Some three years ago police approached a friend of mine and asked him to put them in touch with a rich friend. He said he didn't have any rich friends and then the police demanded that he put them in touch with someone who knows wealthy gay men. That's when my friend called me. He was scared. I didn't know what was going on and when I arrived at 11pm there were two men in the car together with my friend. When I sat down they started threatening and then poking me with electric shocks in the car. They understood that I had no money, but they forced me to call a rich man I knew. They told me I should meet him in a car, kiss him, have sex with him and then they would come. This is exactly what happened. When I was with the man the police came and let me go, but they threatened the other man and forced him to give them money. Later the rich man tried to find me and my friend through the internet. He managed to find my friend and beat him up in revenge. I'm in a relationship now, so, luckily, this can't happen anymore."

Several civil society sources told IPHR that they knew of cases where police had subjected LGBT people to sexual violence including rape. A NGO activist told IPHR: "It is not uncommon that sexual intercourse is a part of the contact between gay men and the police. There are cases where this is voluntary, but there are also cases where police take advantage of the vulnerable situation of the gay man. When the gay man is arbitrarily detained he will be afraid to say 'no' to the police. I know of cases of very obvious rape and other physical violence."



Umedjon, a gay dancer, reported that he was raped and beaten by a police officer at a police station in 2012: "At around 2 o'clock at night some girls, who also dance in the club where I work, and I were on the way home from a friend's birthday party. We decided to take an unofficial taxi home because we were a little drunk. A car with two men stopped and we sat down in the back. The girls flirted with the men and told them that they were dancers. The driver asked who I was and when I said the girls were my colleagues, he laughed in a dirty way. The car stopped at a local police station. We were shocked. Why had they taken us there? Then they said 'you're prostitutes and he's your pimp!' We didn't want to get out of the car, but they pulled us out roughly. They took us into the police station and to a police office and then a third man arrived. He wanted to see our passports and asked questions about us. When I refused to answer, referring to my rights, he hit me and said: 'You think you are clever, right?' The girls wanted to defend me, but when one of them got out her phone to call a friend for help the

officers took away all our mobile phones. Then the girls were taken to another room and I stayed with that police officer. I was dead scared. He started looking at my mobile phone and saw gay photos and websites. He said: 'So, you're gay! And you're their pimp!' I kept telling him that they're my colleagues and that my private life is not his business, but he said he'd open a case against me and that 'because of people like me others become sinners and that people like me should be burnt to death so they don't spoil the earth'. I understood that I wouldn't get out of this just by arguing, so I told him "let's find an agreement". He said he would let us all go if I gave him USD 500, but I don't have that much money. Then he shut the door of the office and said 'suck my penis, you gay'. He pushed his penis into my mouth, I almost suffocated. Then he forced me to lie on the table and he raped me. He also beat me on my head and back. It took a long time. I wanted to shout but he stuffed something in my mouth. When he finished he pushed me off the table and I fell on the floor. I was bleeding from my anus. It was very painful. He told me to get dressed and leave. Then the girls and I left the police station. They didn't understand why they suddenly let us go. I didn't tell them. I was so ashamed."

A human rights activist told IPHR of a female sex worker, a lesbian, who was allegedly arbitrarily detained by police in the Shokhmansur District of Dushanbe in 2014 and raped. The police officer reportedly said he was doing this to "cure" her of the "homosexual disease".

A civil society activist recalled the case of a young lesbian woman, whom an investigator at a prosecutor's office not far from Dushanbe forced to have sex on several occasions by exploiting his knowledge of her sexual orientation.

Almost complete impunity

"When we turn to the police they say: you're gay, you don't have rights. You're not a human being."

Siyovush from Qurghonteppa

"After we were beaten by police we thought about complaining and a lawyer said he'd help. But we didn't pursue it because we were afraid the police might take revenge." Akhtam from Kulyab

"People usually don't lodge complaints because the police would tell their parents about their sexual orientation. But I wasn't afraid and I complained to the local prosecutor's office and persistently followed-up on my complaint. Eventually the six police officers who had detained and beaten me were punished and I became famous in my city because I was the only one who had ever dared to complain." Kamil

Torture and ill-treatment are widespread in Tajikistan and impunity is the norm, not just in relation to LGBT people. Many victims of abuse do not seek legal assistance and refrain from lodging complaints with the authorities as they do not believe it is possible to obtain justice and/or because they fear reprisals.⁷¹

When it comes to police abuse of LGBT people there is almost total impunity. Victims targeted because of their sexual orientation and/or by homophobic abuse hardly ever lodge complaints due to their particularly vulnerable position. Although member organizations of the NGO Coalition against Torture offer legal advice and assistance to all victims of torture and ill-treatment regardless of their sexual orientation or gender identity and have provided consultations to several LGBT people in recent years who reported being victims of police abuse, extortion and arbitrary detention due to their sexual orientation, none of the victims actually lodged an official complaint with the authorities. Based on information provided by a member organization of the NGO Coalition, IPHR believes that there is likely to have been at least one case of severe homophobic abuse in recent years where an LGBT person lodged a complaint with the authorities, but, fearing stigma, did not disclose his sexual orientation to the authorities so that the case appeared to be an “ordinary” torture case.

Civil society activists in Tajikistan told IPHR that LGBT people usually refrained from lodging complaints about crimes committed by non-state actors if the investigation into those crimes would lead to their sexual orientation or gender identity being discovered.



According to NGO sources, in October 2011 Mahmaddullo, a gay man from Dushanbe, invited a man to his house and spent the night with him. The next day he noticed that the visitor had stolen his laptop computer, his mobile phone and other items. Mahmaddullo did not complain to the police because he was afraid of reprisals and further complications. He even saw the man again on a street in Dushanbe, but knew he could not do anything since he did not want his sexual orientation to become known.



In another case, Davlatali, a 20-year old gay man, was reportedly raped, beaten and robbed by three men. He decided not to complain to the police as he was afraid of further humiliation because of his sexual orientation.

There were also reports of LGBT people who wanted to lodge a complaint but refrained from doing so when officials

⁷¹ In 2016 the NGO Coalition against Torture in Tajikistan registered a total of 57 cases of torture or other forms of ill-treatment in Tajikistan. In 30 of these cases the victims or their relatives decided to lodge complaints with the authorities, assisted by the Coalition and cooperating lawyers.

expressed homophobic attitudes or threatened them with reprisals.



According to NGO sources, Azim was in a night club with several gay friends in January 2012. A group of other men reportedly made provocative homophobic remarks. Later that night these men reportedly followed the group of gay men and attacked them outside the club. The police arrived and took them all to the police station. All were able to walk free the same night without charges, but when Azim returned to the police station the next day to lodge a complaint against the attackers the duty officer reportedly made homophobic remarks and warned him: “If you write this [complaint], things will get even worse for you.” Azim left the police station without making a complaint.

On 7 February 2014 the BBC Russian Service reported to have been informed by the Ministry of Internal Affairs of Tajikistan that the Ministry had not received any complaints from members of sexual minorities and was not aware of any crimes that had been committed in connection with a person’s sexual orientation.⁷²

During its research visit to Tajikistan IPHR learnt of one case where a gay man had lodged and persistently pursued a complaint about police abuse. Eventually, one police officer was dismissed from his job and five others were reprimanded. The man, who we shall call Kamil, reported that he also lodged a civil suit and the court ordered the police officers to cover the medical expenses required to treat the injuries he had sustained through the abuse. Although a rare exception, this case demonstrates that despite all adversities, the criminal justice system in Tajikistan does offer avenues for LGBT people to pursue complaints.



Kamil told IPHR: “I was a student and worked as a waiter in a restaurant in the evenings. One night in 2012 two policemen of the criminal police in our city came and walked directly towards me. ‘Let’s go to the police station. Pack your stuff!’ They didn’t explain why. Another four policemen came and handcuffed me. I knew all those police officers. They often came to the restaurant and made fun of me because they knew that I belong to the LGBT community. My colleagues and some clients started shouting at them, it was very chaotic, and then the officers dragged me outside to their car and took me to the police station. There they accused me of selling dope and wanted to search me. I told them this was not true. I was afraid that they might plant drugs on me. Then they told me I should always inform them when someone from the LGBT community comes to the restaurant and give them information on

⁷² Tadjhikiskiy muftiy osudil geyev vo vremya propovedi, 7 February 2014: http://www.bbc.com/russian/society/2014/02/140207_tajik_cleric_condemns_gays

who has sex with whom. They wanted to use me to find rich people whom they could blackmail. They threatened to call my university and my family and tell them about my sexual orientation. I refused to cooperate and then two policemen beat me. Eventually they let me go. The next day I went to the doctor to record the injuries. I had concussion, my arm was dislocated, my body was covered in bruises and scratches, my jeans were torn. I wasn't able to work or go to university for a whole month until everything had healed. The day after my detention the owner of the restaurant, the bar tender and the cashier went to the police to defend me. I wrote a complaint to the Prosecutor's Office about arresting me without a warrant and beating me. I was upfront about everything. I told the prosecutor straight away that I belong to the LGBT community. The head of the Prosecutor's Office called the heads of two city departments of the Interior Ministry and the six policemen to discuss the matter. The case took a whole year. Sometimes I felt it was getting stuck and I went to the Prosecutor's Office and told them that I would complain to the Prosecutor General's Office unless I could see some progress. Eventually one of the six police officers was dismissed and the others were reprimanded. During that year the policemen regularly came to my house and asked me to withdraw my complaint, but I didn't do that. I also lodged a civil suit against them. I won and they had to cover my medical expenses and the restaurant's loss of earnings after some customers left without paying since on the night I was detained. After winning this case I was not afraid anymore. Everybody knew that I would complain, so they don't touch me anymore.

The vulnerable situation of civil society groups working with LGBT people

Homophobia, transphobia and the societal stigma that LGBT people are exposed to in Tajikistan appear to rub off on the NGOs working with this marginalized group.

Tajikistani civil society groups working with LGBT people in the framework of health or human rights programmes have reported that they are not invited to government-organized round tables or working groups. Therefore they lack opportunities to contribute to policy discussions and the legislative process pertaining to areas of their work or to provide input into Tajikistan's engagement with UN treaty bodies and mechanisms or the UN's Universal Periodic Review.

Several NGO representatives from Dushanbe, Khujand and Qurghonteppa, who promote the rights of sexual

minorities or who work with LGBT people in HIV prevention programmes, told IPHR that – in recent years – government officials have accused their NGOs of “promoting homosexuality”, “spreading HIV/AIDS” and “subverting Tajik culture with Western ideas”. A senior official of the Ministry of Internal Affairs’ Department responsible for counter-acting crimes and offences against public order and morality told a Tajikistani human rights defender in 2015 that he believed homosexuality is alien to Tajikistan and “comes to us from the West”.

In recent years local and international human rights groups have become increasingly concerned about the shrinking space for independent civil society organizations in Tajikistan.⁷³ Registration and excessive reporting requirements for NGOs, which give broad powers to the Ministry of Justice and other government entities, provide room for undue state interference in the work of NGOs. Societal homophobia and transphobia make groups working with LGBT clients particularly vulnerable to government pressure. There have been several incidents in recent years where the authorities targeted such NGOs and pressurized them to discontinue their work with sexual minorities.

Recommendations

To the authorities of Tajikistan

- Publicly acknowledge that consensual homosexual relations between adults are legal in Tajikistan and state that all persons are equally entitled to enjoy all human rights, irrespective of sexual orientation or gender identity.
- Publicly condemn torture and ill-treatment in Tajikistan and state that no act of torture or other forms of ill-treatment will be tolerated. Acknowledge and condemn the problem of extortion and police abuse of lesbian, gay, bisexual, and transgender (LGBT) people in Tajikistan, and pledge to take all necessary steps to end these abuses.
- Review compliance of domestic legislation and internal guidelines of the Ministry of Internal Affairs with Tajikistan’s international human rights obligations on non-discrimination, in particular with regard to sexual minorities.
- Amend Article 17 of the Constitution of Tajikistan and add “sexual orientation and gender identity” to the list of grounds that must not form the basis of discrimination; additionally embody the principles of equality and non-discrimination on the basis of sexual orientation and gender identity in other appropriate legislation.

⁷³ For further information refer to: *Central Asia’s civil society at 25 years of independence: Appeal for solidarity*, jointly issued on 21 September 2016 by Central Asian human rights groups and IPHR: <http://iphronline.org/central-asia-civil-society-appeal-20160921.html>

- Affirm in law and practice the right of people to have their gender identity recognized on official and other documents; discard the conditions that they must undergo, such as surgery, before they can change their legal gender.
- Ensure that no one is forced to undergo tests for HIV/AIDS, in line with the International Guidelines on HIV/AIDS and Human Rights.
- Ensure the right of all persons to choose when, to whom and how to disclose information relating to their sexual orientation or gender identity, and protect everybody from arbitrary or unwanted disclosure, or threat of disclosure of such information by others.
- Establish an effective, accessible and confidential system for receiving and processing complaints about arbitrary detention, extortion and torture or other forms of ill-treatment taking into consideration the specific vulnerabilities of LGBT people and respect their right to privacy.
- Ensure that complainants and witnesses, including LGBT people, are protected against reprisals as soon as the authorities receive the complaint/witness report and that appropriate disciplinary or, where relevant, criminal measures are imposed against perpetrators for such actions.
- Conduct prompt, thorough, impartial and independent investigations into all allegations of arbitrary detention, extortion, torture or other ill-treatment as well as abuse by non-state actors, including those relating to LGBT people, and bring the perpetrators to justice in fair proceedings.
- Ensure that when allegations of arbitrary detention, extortion, torture or ill-treatment or other misconduct are made against a police officer, the officer in question is suspended from his duty pending investigation.
- Ensure that all victims of torture or other forms of ill-treatment, including LGBT people, have access to redress and the right to an effective remedy, including rehabilitation and compensation.
- Ensure that all civil society activists, including those working on human rights, health and other issues affecting sexual minorities, can go about their peaceful activities without undue interference. Restrictions on the freedom of association and peaceful assembly of members or sexual minorities and organizations must not be applied in an arbitrary or discriminatory manner.

- Ensure that organizations defending the rights of LGBT people are consulted with regard to legislation and policies that affect these rights and that they are invited to government-organized round tables and conferences on human rights concerns affecting LGBT people.
- Engage with LGBT rights groups in Tajikistan to develop training programmes for law enforcement and prosecutor's offices on human rights, LGBT rights, and non-discrimination; rights awareness-raising campaigns among LGBT people and others; and other measures to prevent and remedy police abuse against LGBT people.
- Put in place an effective mechanism within the Ombudsman's Office for receiving and investigating complaints from victims of abuse, including LGBT people, who require their personal information to be kept confidential, and widely publicize the mechanism.
- Ensure that the Ombudsman's Monitoring Group receives training about LGBT rights and non-discrimination from Tajikistani LGBT activists.



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