

Prepared by Central Asian Gender and Sexuality Advocacy Network
“CAGSAN”



SHADOW REPORT

**DISCRIMINATORY POLICIES AND PRACTICES, HATE SPEECH AND HATE
CRIMES AGAINST LBT COMMUNITIES OF TAJIKISTAN**

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST
WOMEN (CEDAW)**

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Central Asian Gender and Sexuality Advocacy Network is coalition of LGBT activists, working on protection and promotion of LGBT communities rights and freedoms in the countries of Central Asian region.

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Table of contents

Executive summary

1. Key terms
2. Introduction
3. Status of LGBTI people in Tajikistan
 - 3.1. Discrimination and violence against LGBT people
 - 3.2. Vulnerability position of civil society groups working with LGBT people

EXECUTIVE SUMMARY:

This shadow report is based on cases documented by Central Asian gender and sexuality advocacy network “CAGSAN” in 2016-2018, describing the situation of lesbian, bisexual women, transgender (LBT) people in Tajikistan.

This report focuses on cases where LGBT individuals become targets for police officers because of their sexual orientation or gender identity, and describes how the police use the vulnerable position of LGBT persons and blackmail them for financial gain. The report describes cases of physical and sexual violence by police officers, as well as the reasons for the continued extortion and violence by the police and ill-treatment by non-state actors in an environment of almost complete impunity.

The report also draws attention to the vulnerability of civil society groups working with LGBT persons in Tajikistan to government pressure.¹

1. KEY TERMS:

LBT – abbreviation for lesbian, bisexual women and transgender people.

Lesbians are women, who experience emotional, romantic and physical attraction to other women.

Bisexual women are women, who experience emotional, romantic and physical attraction both to men and women.

Transgender people are people who regard the sex that was identified at birth as not reflecting, or not fully reflecting their gender identity. For the purposes of this report both transgender men and women are included. Transgender women are people who were assigned male sex at birth but identify and live as women. Transgender men are people who were assigned female sex at birth but identify and live as men.

Sexual Orientation is the way in which a person's sexual and emotional desires are directed. The term categorizes according to the sex of the object of desire—that is, it describes whether a person is attracted primarily toward people of the same or opposite sex or to both.

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance or function by medical, surgical or other means) and other expressions of gender, including dress, speech and mannerisms.

¹ “We just want to be who we are!” LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE, 3 July 2017, available at <http://iphronline.org/wp-content/uploads/2017/06/LGBT-en-for-web.pdf>

2. INTRODUCTION

Despite the fact that, consensual homosexual relations between adults were decriminalized in Tajikistan in 1998, the level of homophobia and transphobia has since then increased due to various internal and external influences.²

Rights of lesbian, bisexual and transgender (LBT) people in Tajikistan are often violated in the most blatant way, while homophobic and transphobic attitudes are widespread in Tajik society.

In previous CEDAW Sessions Tajikistan government has not report any cases on situation of LBT women in Tajikistan, even on the contrary, the Tajikistan State is taking steps to officially limit the rights of lesbians, bisexual women and transgender people in the country. In 2014 In a press release issued by the Ministry of Foreign Affairs in 2014, “homosexuality” are considered as elements of the list of crimes and offenses against morality and public order with which the Ministry is obliged to fight. In another 2014 press release, the Ministry informs that in relation to three people, “the necessary measures were taken for homosexual behavior” and furthermore, that it is ‘normal’ to violate their rights while the level of homophobic and transphobic violence in Tajikistan has dramatically increased since introduction of the the list of LBT people. Ministry of Internal Affairs started creating lists of LGBT people in 2016, by which it allows police officers to track and hunt down LGBT people, arbitrarily arresting them, torturing and extorting them.

As civil society we have documented cases of “corrective” rape of lesbian and bisexual women and family violence, none of which is addressed by any of the governments.

It is clear that existing legislation and policies in these countries do not protect LBT people from violence and discrimination, while incitements to violence and discrimination against LGBT people are on the rise under the influence of negative publications in media and ongoing impunity of attackers. More and more LBT people from the region are forced to flee and seek refuge in third countries.

In spite of the many acts of intolerance, discrimination and violence, the government of Tajikistan has forced organizations providing assistance and services to LBT people and sex workers to close. They are forced to go underground and are not allowed to receive funding, while they are essential in promoting tolerance and non-discrimination of LBT people and sex workers, and in providing assistance and services.

3. STATUS OF LBT PEOPLE IN TAJIKISTAN

3.1 Discrimination and violence against LBT people

² Операции по смене пола – редкость, и общественные предрассудки удерживают трансгендеров от этого шага <https://iwpr.net/ru/global-voices/>.

Homosexuality is legal in Tajikistan, and there is no legal basis for police officers to prosecute members of the LGBT community if they have not violated laws that apply to all residents of Tajikistan.

However, there is reason to believe that the Ministry of Internal Affairs and its representatives go beyond the law and add the fight against homosexuality to their legally sanctioned duties in the fight against crimes and offenses against public order and morality under the Criminal Code and the Code on Administrative Offenses of the Republic of Tajikistan.

According to activists and community representatives, tacit instructions on preventive work aimed at combating “the spread of homosexuality” were given to employees of the bodies of the Ministry of Internal Affairs dealing with crimes against public order and morality (and represented in all regions of the country).

The pressure of police officers on the LBT community reached its peak during raids conducted in 2014, however, reports of pressure were regularly received in the future. Police officers threatened to disclose information about the sexual orientation or gender identity of LBT persons to their families, neighbors or employers and extorted money from them in exchange for keeping secrets.

Many NGO activists reported that employees of the Ministry of Internal Affairs, designed to combat moral crimes and offenses, were often implicated in extortion and other illegal actions, and the IHRL documented several such incidents. There were reports that ordinary police officers from the district and city police stations also participated in such illegal actions.

Several NGO representatives said that lesbians, bisexual and trans people face the problem of intimidation and abuse by police officers mainly in cities. In rural areas, they tend to keep their sexual orientation secret, and local police rarely find out about them. Thus, the possibility of blackmailing homosexual and bisexual women and men by police officers in order to generate additional income is a side effect of the relative freedom of action and anonymity of LBT people living in cities. The situation with LBT women in the country is deteriorating, especially in small towns and regions, when women don’t dress peculiarly, are friends with men, don’t want to marry someone whom their parents find as husbands, very often abused by relatives and family. There is a double discrimination of LBT women in the country, because Tajikistan is a patriarchal country and men dominate in many areas and the family.

Police officers reportedly often press these charges only in order to gain financial gain or force an LGBT person to become an informer. The inability of the police to act strictly within the framework of the law is manifested not only in relation to LGBT persons working in the field of sex services. However, in these cases, unlawful actions by police officers are often accompanied by manifestations of homophobia or transphobia, as well as the use of the vulnerable position of LGBT people³.

³ We just want to be who we are!” LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE, 3 July 2017, available at <http://iphronline.org/wp-content/uploads/2017/06/LGBT-en-for-web.pdf>

Case №1. Trans female K, 32 years old Dushanbe.

Trans woman 5 years ago, having changed the documents, there was a very difficult path of humiliation and suffering. After changing documents, she began working in nightclubs to somehow make a living. Almost every night, as she tells herself she was pestered by nightclub visitors, tried to rape. Sometimes they succeeded, because they knew about her identity and threatened with blackmail. Recently, she changed her job to a better one. I acquired support from a policeman who worked on her site, systematically paying money to be left alone. Her last appeal was in July 2018, when some people came to work for her, then law enforcement officials, calling themselves Interior Ministry officers, began to ask for all identity documents, they said they know who she is and she should not work in the service sector . They began to blackmail her to leave this place of work.

Case № 2. Trans woman is 28 years old. Dushanbe.

Since 2016, the transgender has tried to change documents, but the registry office told her that she needed to go to court. The judicial authorities, in turn, refused to accept the application from the Transgenschyna, referring to the fact that this was not within their authority, and there was no dispute between the Transgenschyna and the Civil Registry Office, since the Civil Registry Office did not refuse to change the documents in Transzhensky. After receiving such a written response in court, the trans-woman wrote to the registry office in writing, but did not receive a written report. The registrar verbally replied that in the normative legal acts of the RT regulating the activities and powers of the registry offices, it is not specified that they can change the sex in the documents proving the identity of the citizen. After many attacks, beatings and blackmail in almost 24-month appeals to the bodies of the Dushanbe registry office, the transgender woman had to go to Russia and engage in sex work in order to feed herself.

Case №3. Trans man. 37 years old Dushanbe.

Trans man tried to change the documents, after repeated incidents on the streets when a group of guys pestered and several times even beat, asked to show the passport, who he really is. The crowd shouted loudly on the street that they know that he is a woman who walks in men's clothes. There were also incidents on the passage of customs control, when the employees of passport control mocked and sent trans man to the inspection of women. The last time, when a trans man turned to a psychiatric clinic, he was forced to lie in the clinic for 21 days, explaining that only after that they would give a certificate, which is necessary for a sex change in the document. When he refused to go to the hospital, he was told that they would then tell him to the police that he was not an adequately-mentally ill woman. In August of 2018 he was called by the district police officer and a rather difficult conversation took place in which he said that he was angering God, and for this there would be a payment. After this conversation, the trans man received a summons for the appearance in the ATS of one of the districts of Dushanbe. Transmen man decided to flee the country. Taking family members, he left the country indefinitely.

Recommendation:

1. The Tajik government to stop persecution and extortion of LGBT people and dismantle any official and unofficial lists of LGBT individuals.
2. Withdraw all discriminatory legislations and policies and introduce anti-discrimination legislation and effective policies to promote tolerance and non-discrimination.
3. Develop and implement a system of awareness raising of law enforcement agencies on issues of sexual orientation and gender identity, including through the inclusion of educational blocks on SOGI in the curricula of higher education institutions that prepare law enforcement officers in cooperation with LGBT organizations.
4. Guarantee equal access to justice and provide effective legal protection to LGBT people by law enforcement bodies.
5. Work with anti-corruption agencies to combat acts of blackmailing and extortion of LGBT people by police officers.
6. Confirm in legislation and procedural norms the right to self-determined gender identity, recognized in official and other documents; waive the condition that such persons should undergo surgery before changing their legal gender.

3.2 Vulnerability position of civil society groups working with LBT people

The manifestations of homophobia, transphobia and social stigma faced by LBT people in Tajikistan also affect NGOs working with this marginalized group.

Tajik civil society groups collaborating with LBT people in the framework of health and human rights programs are not invited to participate in working groups and round tables organized by the government. Thus, they are deprived of the opportunity to contribute to the discussion on policy and legislation relevant to their field of activity, and also can not promote cooperation between Tajikistan and the UN treaty bodies and mechanisms, as well as the United Nations Universal Periodic Review.

A number of representatives of NGOs in Dushanbe, Khujand and Kurgan-Tube who defend the rights of sexual minorities or collaborate with LBT people in the framework of HIV prevention programs reported that in recent years government officials have repeatedly accused their NGOs of "promoting homosexuality", "spreading HIV / AIDS "And" subversion against Tajik culture through the introduction of Western values into it. " In 2015, a senior official from the Ministry of Internal Affairs responsible for combating crimes and offenses against public order and morality, told the Tajik human rights defender that, in his opinion, homosexuality is alien to the traditions of Tajikistan and "came to us from the West."

In recent years, local and international human rights organizations have expressed increasing concern over the restrictions on the freedom of action of independent civil society organizations in Tajikistan. The need for registration and excessive demands on NGOs in

terms of accountability gives the Ministry of Justice and other government agencies wide powers and opportunities for undue interference in the activities of NGOs. Groups working with sexual minorities are especially vulnerable to government pressure in the face of homophobia and transphobia in society. In recent years, there have been a number of cases in which the authorities put pressure on NGOs of this profile in order to force them to stop cooperating with LBT women⁴.

Case №4. Sughd region.
Lesbian 33 years old, met a girl. After, her parents found out about her relationship, she was forcibly married. The girl is married about 7 years old has 2 children. In 2016, she met the girl on the Internet and later established a relationship with her. Periodically, they met in secret. At the end of 2016, her husband found her correspondence. After that, he closed her at home and beat her. I did not let go to go out and go home to relatives. When she wanted to leave him, he began to blackmail her, that she would tell her family and take her children for an immoral way of life. She had to stay with him for the sake of children, under constant reproaches and bullying. She is confident that the police and the court will not defend her, and will stand on the side of the children's father, having learned about her orientation.

Case №5. Khatlon region.
Case was registered in 2017. A lesbian girl, who was a Jew in a village, dressed as a man, her parents not approving of her clothes, manners and behavior began to take her and force her to a religious preacher so that he would read her suras for healing. Mulla also recommended to take the girl to the doctors, the psychologist Doctors prescribed sedative drugs, also suggested that a "gin" could move into the girl and be better treated by religious methods. In the middle of 2018, after passing a course of treatment in public medical institutions and religious methods, parents forced the girl to dress in women's clothes, and prepares her for marriage.

Recommendation:

- Conduct an audit of the national legislation and internal instructions of the Ministry of the Interior for compliance with Tajikistan's international obligations in the field of human rights and prohibition of discrimination, in particular with regard to sexual minorities.
- Ensure that no one is subjected to compulsory testing for HIV / AIDS in accordance with the International Guidelines on HIV / AIDS and Human Rights.
- Guarantee all citizens the right to decide on their own when, to whom and how to disclose information about their sexual orientation or gender identity, and to protect all citizens from arbitrary or undesirable disclosure, or the threat of disclosure of such information by others.

⁴ We just want to be who we are!" LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE, 3 July 2017, available at <http://iphronline.org/wp-content/uploads/2017/06/LGBT-en-for-web.pdf>

- Establish an effective, accessible and confidential system for receiving and processing complaints of arbitrary detention, extortion, torture or other ill-treatment, taking into account specific vulnerabilities of LGBT persons and respecting their rights to privacy.
- Provide applicants and witnesses, including LGBT persons, with guarantees of protection against reprisals, starting from the moment a witness's complaint (statement) is received by the authorities, and ensure that the appropriate disciplinary or criminal measures are applied to all those guilty of unlawful actions punishment.
- Conduct a prompt, thorough, impartial and independent investigation of all allegations of arbitrary detention, extortion, torture or other ill-treatment, as well as allegations of abuse by non-state actors, including against LGBT persons, and to bring all the perpetrators accountable in a fair trial.
- In cases where charges of arbitrary detention, extortion, torture, ill-treatment or other unlawful actions are brought against a police officer, ensure that the suspected police officer is suspended from service until the investigation is completed.
- Ensure that all civilian activists, including those who work with sexual minorities on human rights, health, etc., have the opportunity to conduct peaceful activities without undue interference from outside. Restrictions on the right to freedom of association and peaceful assembly of members of sexual minorities and members of their organizations should not be applied in an arbitrary or discriminatory manner.
- Within the Office of the Human Rights Ombudsman, an effective mechanism for registering and investigating complaints filed by victims of ill-treatment, including LGBT persons who need to maintain the confidentiality of their personal information, as well as conduct a broad campaign to popularize this mechanism⁵.

⁵ We just want to be who we are!" LGBT PEOPLE IN TAJIKISTAN: BEATEN, RAPED AND EXPLOITED BY POLICE, 3 July 2017, available at <http://iphronline.org/wp-content/uploads/2017/06/LGBT-en-for-web.pdf>