RIGHTS FOR ALL?

LGBTIQ PERSONS IN TAJIKISTAN SYSTEMATICALLY DENIED HUMAN RIGHTS

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Executive summary

The human rights of lesbian, gay, bisexual, intersex and queer people (LGBTIQ) continue to be routinely violated in Tajikistan. In 2022 and 2023, LGBTIQ people have faced additional pressure as police conducted a series of raids against them in several cities and towns of Tajikistan.

Although key patterns of violations including discrimination of LGBTIQ persons in all spheres of life, police abuse and arbitrary detention have repeatedly been raised by international human rights groups and intergovernmental organizations in recent years, the Tajikistani authorities have failed to address them. While Tajikistan has integrated many recommendations from United Nations (UN) treaty bodies on other human rights concerns into its National Strategy on Human Rights and relevant national action plans and programmes, not one of the LGBTIQ-related recommendations has been incorporated.

The authorities’ removal of “gender”, “gender identity” and “sexual orientation” as prohibited grounds for discrimination from the draft Law on Equality and Elimination of all Forms of Discrimination (Anti-Discrimination Law) before its adoption in July 2022, additionally illustrates the authorities’ lack of political will to commit to countering the glaring discrimination faced by LGBTIQ people. Instead, representatives of the authorities have on several occasions publicly presented the lives of LGBTIQ people as alien to Tajikistani culture and values, and positioned the government as the upholder of morality and tradition.

Homophobia and transphobia continue to run deep in Tajikistan today. LGBTIQ persons whose sexual orientation or gender identity becomes known to relatives, neighbours, employers, teachers or others who cannot or do not hide their identity, remain at risk of being chased from their homes, dismissed from their jobs, being considered unemployable and/or exposed to ridicule, intimidation and abuse. A trans person whose physical appearance is not consistent with the name or sex indicated in their identity documents typically cannot find a legal job, open a bank account, study at university or vote, and they are likely to encounter problems with border guards when they wish to travel abroad.

LGBTIQ persons who are HIV-positive are particularly vulnerable to government pressure. In their fight against the spread of HIV/AIDS, the authorities have on several occasions portrayed men having sex with men as key culprits, although official statistics demonstrate steep rises in infections among other risk groups, particularly migrant workers.

During the raids in 2022 and 2023, police subjected numerous LGBTIQ persons to forced HIV testing. Those who tested positive were charged with “putting another person at risk of infection with human immunodeficiency virus” (Article 125, part 1 of the Criminal Code) or released after being made to pay large bribes to the police. This happened even in cases where the accused was not infectious due to regular antiretroviral treatment or where sexual partners stated that they had no claim against the accused. Forced HIV testing runs counter to Tajikistan’s obligations under international human rights law and the International Guidelines on HIV/AIDS and Human Rights that were jointly issued by the Office of the High Commissioner for Human Rights (OHCHR) and the Joint United Nations Programme on HIV/AIDS (UNAIDS).

There are recent moves to protect people living with HIV from arbitrary punishment. On 26 December 2023, the Plenum of the Supreme Court adopted a document to provide guidance to judges when considering cases opened under Article 125. It is now crucial that courts consistently adhere to these guidelines; that they review all past convictions handed down under Article 125, part 1 and promptly
release all those who have been convicted without evidence of a crime. Additionally, the authorities should promptly amend Article 125 of the Criminal Code and bring it in line with international human rights law and standards.

Police officers have continued to exploit the vulnerable situation of LGBTIQ people for their personal benefit. During research visits in 2016/7\(^1\) and in November 2023, International Partnership for Human Rights (IPHR) recorded dozens of credible cases of police intimidating, physically or sexually abusing or arbitrarily detaining LGBTIQ people and of extorting money from them. During this time police have continued to threaten LGBTIQ people with outing them to family members, neighbours, employees, colleagues or others or with bringing criminal charges unless they pay bribes or share the contact details of wealthy homosexual acquaintances for extortion purposes.

When detaining LGBTIQ people in recent years, police have frequently confiscated their mobile phones without a court order and subsequently brought charges for “illegal production and circulation of pornographic materials or objects” relating to correspondence, photos and videos that police officers found on the phones and the individuals’ social media profiles.

In Tajikistan, those who perpetrate human rights violations against LGBTIQ people, typically escape punishment. As in previous years, very few LGBTIQ people who have been subjected to ill-treatment and extortion at the hands of police have engaged a lawyer to defend them and fight for justice. Usually, LGBTIQ people are afraid to complain about crimes committed against them because they fear that their sexual orientation or gender identity would become known in their local community. Many have lost their faith in the justice system in Tajikistan. An additional problem is that very few lawyers are prepared to defend LGBTIQ people.

Organisations that defend the human rights of LGBTIQ people continue to be at risk of prosecution by the authorities. As a result, there are no groups in Tajikistan that publicly promote LGBTIQ rights.

For security reasons, the names of all victims of human rights violations whose experiences are documented in this report have been changed, as has all other information that could make them recognizable.

**Widespread homophobia and transphobia**

“I was born in the 1980s and I have never seen such strong homophobia as nowadays here in Tajikistan. People became more religious and more traditional, plus they’re influenced by Russian anti-LGBT propaganda.” A homosexual woman told IPHR in November 2023

“I was like an actor in my own home. I wanted my parents to know and accept me. They sensed that I was different, in fact they knew it. But they never wanted to talk about it, they wanted me to pretend that I was ‘normal’. I am not in close contact with them anymore.”

A homosexual man told IPHR in November 2023

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\(^1\) For further information, refer to IPHR’s 2017 report “We just want to be who we are!” LGBTIQ people in Tajikistan: beaten, raped and exploited by police.
Homophobia and transphobia run deep in Tajikistan today as many people believe that homosexuality is alien to the country’s culture and tradition, appearing to believe that it is a contagious disease, inherited through DNA or related to evil spirits. Large parts of the population in contemporary Tajikistan seem not to be aware that consensual homosexual relations between (male) adults were decriminalized over 15 years ago.

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. While this description reflects the beliefs of parts of society, it should not be understood as a generalization valid for all.

For a parent, having a daughter or son whose homosexuality or transgender identity becomes known to the local community is typically considered to be a source of great shame for families. Thus, “coming out” is usually not an option for Tajikistani LGBTIQ people who do not want to expose their families to public ridicule and social exclusion and who do not wish to cut all ties with their families. Sometimes lesbians get married to a friend or another man who agrees to a fake marriage to satisfy societal expectations. In those cases where families know or suspect that one of their members belongs to a sexual minority, relatives often put pressure on them to conform – they try to “cure” LGBTIQ people by sending them to medical doctors, psychiatrists, psychotherapists, mullahs or other religious figures for treatment or by forcing them to wear religious clothes. Women who are not interested in sexual relations with men are at risk of being subjected to “corrective rape” and many LGBTIQ people report that their relatives forced them to get married in order to appear “normal”.

For example, Manizha, who grew up in a village, liked to dress like a boy. Her parents suspected that something was “wrong” and took her to a mullah who read surahs to “cure” her. Her relatives made her wear girls’ clothes. Eventually, her family forced her to marry. Manizha’s husband often beat her and accused her of behaving like a boy. He and her relatives took Manizha to several mullahs to exorcise evil spirits in the hope that she would turn into a “real woman”. Eventually, she got a divorce and moved to Dushanbe, where she found work in a restaurant.

Another example is that of Bonu, who dated another young woman. When Bonu’s parents found out they forced her to get married. She and her husband had two children. Several years into the marriage, Bonu met a woman through the internet and started a relationship. One day her husband found their correspondence, beat her and locked her up at home. Bonu wanted to divorce him but he said he would tell her relatives about her sexual orientation and take the children away from her to “protect them” from her “immoral lifestyle”. She stayed with him for the sake of the children, suffering reproaches and abuse for over two years. Finally, with the support of a lawyer she divorced her husband and was able to keep the children.

2 For a short overview on homoerotic elements in Tajikistan’s history and on homosexuality under Russian Tsarist and then Soviet rule, refer to IPHR’s 2017 report “We just want to be who we are!” LGBTIQ people in Tajikistan: beaten, raped and exploited by police.


4 For reasons of safety, the names of all victims of human rights violations have been changed, as has all other information that could make them recognizable.
Neighbours, teachers, employers and other members of society also often see a role for themselves as “guardians of morality and gender norms”. LGBTIQ people often report being subjected to intimidation, physical and sexual abuse by neighbours and other members of society.

In 2022, a group of lesbian young women, who were dressed like men, left a club in Dushanbe at night. Several men approached and started picking on them, saying that it would be better if they stayed at home at night and dressed like girls. “Who are you, guys or girls? We will teach you how to be a girl.” Eventually, the men started beating them. The women did not complain to the police because they believed it would just get them into more trouble; most likely police would threaten to expose their sexual orientation to their families and demand money in exchange for keeping silent.

According to civil society activists, there are pockets of the population that are tolerant of LGBTIQ people, e.g. young people in larger cities who have access to information and the internet. However, there are virtually no public expressions of solidarity for fear of stigma and negative reactions from relatives, neighbours and others.

Homosexuality and transgender identity are rarely publicly discussed in Tajikistan and when they are addressed in the media it is usually done in a derogatory or sensationalist manner.

In the same way that an LGBTIQ family member is perceived to bring shame on the entire family when his or her sexual orientation or gender identity becomes known to the local community, many people consider that public discussions about LGBTIQ people in Tajikistan are inappropriate as bringing shame on the country.

**LGBTIQ people subjected to human rights violations**

“(Homosexuality) is a complete aberration. It shouldn’t be like this. Please, if anyone needs it, we will help as much as we can. First, we’ll talk: what caused it, where it came from. And then we treat it. We treat it with a guarantee.”

Khurshed Kungurotov, Chief Psychiatrist of the Ministry of Health and Social Protection of the Population of Tajikistan, October 2018

“The government doesn’t see LGBTIQ people as fully human. To them they don’t really belong to the Tajik nation. They were deliberately excluded from the new Anti-Discrimination Law.”

A civil society activist interviewed by IPHR on condition of anonymity, November 2023

“(Because of the established) norms of morality and ethics of human relations (the Tajikistani authorities cannot follow the recommendations of international organizations on LGBTIQ rights)”, Zarif Alizoda, then Ombudsman for Human Rights, was reported as saying at a press conference in January 2019. “(But) this fact does not mean that people of non-traditional orientation are persecuted in Tajikistan”, he added.6

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5 [https://www.currenttime.tv/a/29548825.html](https://www.currenttime.tv/a/29548825.html)

Consensual same-sex relations decriminalized since 1998

In 1998, Tajikistan decriminalized consensual homosexual relations between male adults. Consensual female same sex relations had never been criminalized.

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 men 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 during research visits in 2016 and 2023 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.

Tightening the screws and introduction of police register of LGBTIQ people in 2016

Widespread societal and religious homo- and transfobia, exposure to anti-LGBTIQ propaganda from Russian media sources, and anti-Western sentiment are believed to have mutually reinforced each other in contemporary Tajikistan. Coupled with the “honor-and-shame system” that upholds and controls gender norms in Tajikistan – but which is not unique to the country – this has resulted in a toxic mix for LGBTIQ people.7

In 2012/2013, some civil society activists and independent journalists began to report about human rights violations against LGBTIQ people in Tajikistan. The authorities increasingly publicly portrayed the lives of LGBTIQ people as alien to Tajikistani culture and values, and themselves as the upholders of morality and tradition.

On 5 June 2014, Interior Minister Ramozon Rahimzoda instructed law enforcement officials to “conduct special raids across the Republic to identify individuals engaged in prostitution, procurement and the running of brothels”.8 On 12 June, the Ministry of Internal Affairs reported that from 6 to 10 June police had identified 505 sex workers and a number of people suspected of committing crimes/offences

7 For further information about the “honor-and-shame system”, refer to the 2017 IPHR report “We just want to be who we are!” LGBTIQ people in Tajikistan: beaten, raped and exploited by police., and to Colette Harris: Control and Subversion. Gender Relations in Tajikistan, London 2004, p. 20, 34, 35, 74.
8 This and the following quotes are no longer accessible on the website of the Ministry of Internal Affairs of Tajikistan. Some of the information contained in the chapter can be found here: https://www.asiaplustj.info/ru/news/life/person/20140619/pravozashchitniki-obratilis-k-glave-mvd-tadzhikistana-po-povodu-massovogo-zaderzhaniya-prostit-0
against morality adding that three people were detained so that law enforcement officials could “take the necessary measures for homosexual behaviour”.

Although there are no laws in Tajikistan specifically targeting LGBTIQ people, the Ministry of Internal Affairs stated on 18 July 2014 that its fight against “amoral crimes, prostitution and procurement” included the fight against “homosexuality and lesbianism”.

In 2016, the authorities set up a working group on the issue of young people joining communities of LGBTIQ people. In 2017, Interior Minister Ramozon Rahimzoda stated that the names and details of 319 allegedly gay men and 48 lesbians had been entered into a register introduced in 2016.9

A human rights defender from Dushanbe told IPHR in 2023: “I believe that they continue to enter LGBTIQ people in the register. They don’t specifically target those on the list but they want to have an overview, they want to be in control.”

When asked about the register by a journalist of Radio Ozodi, the Tajik service of Radio Free Europe/Radio Liberty, at a press conference on 15 February 2024, Interior Minister Rahimzoda was reported as insisting that such a register never existed.10

**Authorities fail to address the discrimination of LGBTIQ people – the 2022 Anti-Discrimination Law**

LGBTIQ people whose sexual orientation or gender identity becomes known to relatives, neighbours, employers, teachers or others or those who cannot or do not hide their identity, risk being chased from their homes, dismissed from their jobs, never employed or exposed to ridicule, intimidation and abuse.

For example, in 2022, when Fotima’s employer found out that she was a lesbian, he dismissed her from her job. Rumours started to spread about her sexual orientation and her relatives threatened her with violence. Her brother even threatened to kill her.

According to Tajikistani civil society sources, LGBTIQ people often report that they avoid going to doctors with questions relating to their sexual orientation or gender identity for fear of discrimination or lack of confidentiality. Many are afraid to turn to HIV centres because they are not sure that information about their sexual orientation, gender identity and health status will be kept confidential. Trans people additionally report that most medical doctors have no expertise in the medical treatments required by them.

There are no government policies, plans or initiatives aimed at counteracting discrimination against LGBTIQ people. On 19 July 2022, President Emomali Rahmon signed into force the first-ever comprehensive anti-discrimination legislation in Tajikistan. The Law on Equality and Elimination of all Forms of Discrimination (Anti-Discrimination Law) provides for a broad definition of discrimination and an open list of prohibited grounds for discrimination including race, colour, origin, language, religion

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9 This information was included in an article by Interior Minister Ramozon Rahimzoda that was published in the journal Konuniyat (Legality), issued by the Prosecutor General’s Office in October 2017. The publication reportedly repeated information provided by Ramozon Rahimzoda at a conference earlier this year.

10 Refer to the Radio Ozodi report: Вопрос журналиста о списке ЛГБТ привел министра внутренних дел в негодование, 15 February 2024.
and beliefs, national and (or) ethnic origin, disability, health status, age, nationality, opinion, property or other status. Furthermore, the law describes direct and indirect discrimination, stalking, including sexual harassment as well as aggravating circumstances of discrimination such as multiple discrimination, repeated and prolonged discrimination. Although previous drafts of the law also contained “gender”, “gender identity” and “sexual orientation” as prohibited grounds for discrimination, these were removed before the law was adopted.

2022/2023 police raids against LGBTIQ people, forced HIV-testing and arbitrary criminal charges

According to UNAIDS, Eastern Europe and Central Asia are “experiencing the sharpest rise in numbers of new HIV infections in the world (49% increase since 2010) and a continuing increase in numbers of AIDS-related deaths (46% increase since 2010).”11 UNAIDS reported that in Tajikistan, the number of new HIV infections has increased by 20 per cent over the past 10 years.12 Most recently, on 26 January 2024, President Rahmon was reported as saying that the authorities had registered 1100 new cases of HIV infection in 2023, 63 more than the year before. He instructed the Ministry of Health and Social Protection to work actively to identify new cases of infection.13

In order to counter the fast spread of the virus, the Tajikistani authorities have adopted a heavy-handed approach, which has involved identifying HIV positive people through forced HIV testing; violations of the right to privacy and confidentiality pertaining to the health status of individuals; and bringing criminal charges based solely on a person’s positive HIV status.

While all HIV-positive people have potentially faced human rights violations in relation to the government’s fight against HIV,14 LGBTIQ persons living with HIV face enhanced risks.

The Tajikistani authorities have on several occasions portrayed men having sex with men as the key culprits in the spread of HIV, although, according to official statistics for 2021, 2022 and the first

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11 Refer to: The path that ends AIDS. UNAIDS 2023 global AIDS update

12 Refer to the USAIDS feature story Tajikistan takes a positive step towards decriminalization of HIV exposure and transmission, 30 January 2024. -- In recent years, the authorities have regularly published statistics of registered HIV cases: In November 2022 the government of Tajikistan submitted its Seventh periodic report to CEDAW, stating that “the number of reported HIV infections is increasing annually”. It cited official statistics: “1,146 in 2015, 1,320 in 2019, and 890 in the first nine months of 2020. As of 2021, the total number of officially registered HIV cases in the country was 11,986, of which 7,698 (64.1 per cent) were men and 4,288 (35.8 per cent) were women. According to estimates, there may be 13,000 persons living with HIV.” On 1 December 2023, Aljon Soliev, Deputy Director of the Republican Centre for AIDS Prevention and Control of Tajikistan, told the news outlet Asia Plus that the Centre had registered 15,857 HIV-positive people since 1991 (10,097 men, 5,760 women, 1,062 children under 18) and that a total of 4,358 people had died (https://www.asiaplustj.info/ru/news/tajikistan/society/20231201/skolko-chelovek-boleyut-vichspid-v-tadzhikistane).

13 Refer to the Asia plus report В Таджикистане за год число ВИЧ-инфицированных выросло на 1100, 26 January 2024.

14 For information about the stigmatization and discrimination of HIV-positive people in Tajikistan, refer to Larisa Alexandrova: Human rights of people living with HIV in Tajikistan, 17 May 2021, and NGO submissions to UN treaty bodies such as the 2022 joint NGO submission to the UN Committee on Economic, Social and Cultural Rights by IPHR, Notabene, Human Rights Center, League of women with disabilities “Istirok”, Association of Parents of Disabled Children, Law and Prosperity and the NGO Diyor, and the 2019 submission by Tajikistani NGOs Bureau of human rights and rule of law, Independent Center for human rights protection, Right and prosperity, Office of civil freedoms, Your choice, Khoma and Legal initiative.
six months of 2023, HIV transmission grew most quickly among migrant workers, much faster than among injecting drug users and other risk groups. Most new HIV infections were due to heterosexual intercourse. “The authorities demonize the LGBTIQ community and send out the message that LGBTIQ people are dangerous and spread HIV deliberately”, an activist told IPHR in 2023.

In 2022 and 2023, police conducted a series of special raids against LGBTIQ people across Tajikistan. One wave of raids reportedly commenced shortly after senior officials of the Ministry of Internal Affairs made public statements in connection with arrests of HIV positive LGBTIQ people.

On 15 February 2023, Borotali Khamidzoda, the head of Dushanbe City Department of Internal Affairs was reported by media as stating at a press conference that 10 men, who belong to the LGBTIQ community, had been arrested on suspicion of infecting 86 people with HIV. On the same day, Ramazon Rakhimzoda, the Minister of Internal Affairs, was reported as saying that “Police officers detain representatives of the LGBT community who intentionally infect citizens with HIV (...) The Ministry of Internal Affairs does not conduct special raids against gays and lesbians. However, they are constantly under our observation.”

Civil society activists and members of the LGBTIQ community told IPHR that numerous LGBTIQ people were subjected to forced HIV testing during police raids that specifically targeted LGBTIQ people in 2022 and 2023. Forced HIV testing contravenes the International Guidelines on HIV/AIDS and Human Rights that were jointly issued by the Office of the High Commissioner for Human Rights (OHCHR) and UNAIDS. According to the Guidelines, 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”. On 9 August 2023, media reported Health Minister Djamoliddin Abdullozoda as saying that the number of HIV tests administered to citizens of Tajikistan had increased with a total of 479 000 tests conducted from January to June 2023.

Those who tested positive were charged with “putting another person at risk of infection with the human immunodeficiency virus” under Article 125, part 1 of the Criminal Code, or released after they bribed the police. Article 125, part 1 punishes HIV transmission and exposure with up to two years’ imprisonment and up to three years’ restrictions of liberty . Prosecutions under Article 125 part 1 have often been brought based solely on a positive HIV status. Many of those charged after the police raids were not infectious thanks to regular antiretroviral treatment or used preventative measures such as male or female condoms. Article 125, part 2 punishes transmission by someone aware of their status with two to five years’ imprisonment. Part 3 carries terms of imprisonment of up to 10 years, when several people or a minor are affected.

15 Refer to the Radio Ozodi report В Душанбе геи подозреваются в заражении ВИЧ более 80 человек, 15 February 2023.
16 Refer to the Sputnik Tajikistan report В Таджикистане стало больше ВИЧ-инфицированных среди женщин и детей, 9 August 2023.
17 The WHO and UNAIDS repeatedly stated that people with HIV who are taking antiretroviral treatment and have an undetectable viral load do not transmit HIV to their sexual partners. See, for example: https://www.who.int/news-room/fact-sheets/detail/hiv-aids. In September 2022, the Tajikistani NGO Spid Plyus asked the WHO’s Country Office in Tajikistan to provide an expert opinion on whether a person who receives regular antiretroviral treatment and has an undetectable virus count can infect another person with HIV. A copy of the response, dated 31 October 2022, can be accessed here: https://www.facebook.com/photo/?fbid=442121708078205&set=a.415803387376704
Giti was imprisoned for spreading HIV despite lack of evidence

Local police officers in the community where Giti and Gulnaz, a lesbian couple, lived had tried to punish them for what they regarded as their amoral lifestyle on several occasions including by unsuccessfully accusing them of running a brothel. In 2023, police officers forced both women to undergo HIV tests and found out that Gulnaz was HIV positive. She was charged under Article 125 of the Criminal Code although Giti had no claims against her friend and explained that she had been aware of the HIV status and that they took precautions. The police did not accept this and reportedly beat Giti forcing her to state in writing that she blamed Gulnaz for putting her at risk. Gulnaz was subsequently convicted and sent to prison.

Zarina: Threatened with being charged, then released after paying a bribe

In April 2023, four trans women were having a small party in their flat when there was a sudden knock at the door. A police officer entered the flat and ordered them into a police van that was parked in front of the house. When they arrived at the police station each was taken to a different office for interrogation. Zarina reported that an officer made fun of her and insulted her for her female looks. The officer threatened to open a criminal case under Article 125, part 1 and verbally intimidated her when she replied that she received antiretroviral treatment and was not infectious. The next morning the police officer told Zarina that the only way to avoid being charged with Article 125 was to pay a fine equivalent to USD 500. After paying Zarina was released.

Even outside of special raids, LGBTIQ people are at a heightened risk of being targeted by police, as outlined in the following chapter Ill-treatment, sexual abuse and extortion: Police exploit the vulnerable situation of LGBTIQ people for their personal benefit. This has further enhanced their risk of being subjected to forcible HIV testing and of being charged with Article 125, part 1 of the Criminal Code.

HIV STATUS AND BREACHES OF CONFIDENTIALITY

IPHR is also concerned at allegations that there are cases where criminal charges have been brought against HIV-positive people after HIV centres disclosed the individuals’ status to law enforcement officers, without presenting a court order.

Several Tajikistani civil society activists reported that a large number of medical staff at HIV clinics have received training and are well-aware of their rights vis-à-vis police requests. They believe that breaches of confidentiality by HIV centres take place less frequently than in the past. At the same time allegations continue to be received of police pressuring HIV centres to provide information about a person’s HIV status. Reportedly, police sometimes approach peer consultants (HIV positive people who work as outreach workers with HIV centres) and put pressure on them to obtain information about clients.

Domestic legislation contains contradictory laws about the right to privacy and confidentiality pertaining to the health status of individuals.
Article 14 of the Criminal Procedure Code of Tajikistan protects the right to privacy, including personal data and private and family secrets. Restriction of these rights in the course of criminal proceedings is allowed only by court order, in cases and in the manner established by law.

Article 162 of the Health Code of Tajikistan sets out that institutions of the health system must keep information about the HIV status of a person strictly confidential. However, part 2 of the Article provides for significant exceptions including that health institutions have to provide information to investigative authorities without a court order.

Many people are afraid to turn to HIV centres for testing because of the stigma associated with the infection and do not believe that their cases will be treated confidentially. LGBTIQ people who are HIV-positive additionally risk breaches of confidentiality with regard to their sexual orientation or gender identity.

**A STEP IN THE RIGHT DIRECTION: SUPREME COURT ISSUED GUIDANCE TO COURTS**

On a positive note, the Supreme Court of Tajikistan, civil society groups and intergovernmental organizations such as UNAIDS, the United Nations Development Programme (UNDP), and the Global Fund to fight AIDS, TB and Malaria have worked together with the aim of protecting HIV positive people from arbitrary punishment. On 26 December 2023, the Plenum of the Supreme Court adopted a document to provide guidance to judges when considering cases opened under Article 125. For example, the document stipulates the need to establish whether the accused underwent regular antiretroviral treatment, whether the virus count was below the risk threshold and whether protective measures were used such as male or female condoms. It is now crucial that judges consistently implement the recent Supreme Court decision and that civil society groups monitor cases opened under Article 125. Article 125 of the Criminal Code must also be amended accordingly.

**Ill-treatment, sexual abuse and extortion: Police exploit the vulnerable situation of LGBTIQ people for their personal benefit**

IPHR recorded dozens of credible cases of police intimidating, physically or sexually abusing or arbitrarily detaining LGBTIQ people in 2022 and 2023 and of extorting money from them. This confirms the continuation of a pattern of abuse that IPHR documented in its 2017 report, entitled “We just want to be who we are!” LGBTIQ people in Tajikistan: beaten, raped and exploited by police that was based on research in several regions of Tajikistan.

Police officers have continued threatening LGBTIQ people with outing them to family members, neighbours, employees, colleagues or others or with bringing criminal charges unless they agreed to pay large bribes or share the contact details of wealthy homosexual acquaintances for extortion purposes. As many LGBTIQ 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.

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18 The Russian version of the document can be found [here](#).
Police threatened to tell Sherali’s family that he is gay

For example, in early May 2023, Sherali, an IT specialist, received a call from an unknown number. A man told him that he urgently needed IT support and wanted to meet the same day. When Sherali approached the agreed meeting place, a car with tinted windows arrived and two men overpowered Sherali and forced him inside. While they were driving, the men reportedly told Sherali that they were police officers and that they were going to charge him with “resisting the police”. When they arrived at the local police station, the officers reportedly took away his mobile phone and locked him in a cell for five days. They told him that unless he brought them a large sum of money, he would end up in prison and they would tell his family that he is gay. Sherali was afraid that police would never stop blackmailing him and as soon as the police released him, he packed his bags and left the country.

Zafar subjected to sexual abuse and extortion by police

Zafar is a young gay man who lives in Dushanbe. He provides information about HIV prevention and treatment to other gay men as well as basic legal aid. Zafar reported that one day he received a phone call from a police officer who told him to come to the local police station. When he arrived, an officer took his phone without showing a court order and Zafar was locked into a cell in the basement. According to Zafar, he was held at the police station for several days. He knew that police officers were going through his phone, his list of contacts, his private correspondence and his photos and videos. One day two officers reportedly entered the cell and forced him to have oral sex. They threatened that unless he gave them contact details of wealthy gay men, they would continue abusing him. Out of fear Zafar gave them contact details of some of his acquaintances and was subsequently released.

Komil subjected to beatings and extortion by police

One day in April 2023, as Komil was walking down the street in the northern city of Khujand, a car with tinted windows stopped next to him, two men jumped out and dragged him inside. First, he thought he was being forcibly conscribed into the army, but when they arrived at the local police station, the men started insulting him for being gay. They demanded he tell them about his sexual partners, meeting places and contact details. When he refused, the officers reportedly beat him and demanded money in exchange for being released. He agreed to pay in order to regain his freedom.
Police in search of victim for extortion

Bobur connected with a man through a gay social media network and was planning to meet him that evening. They had talked on the phone and agreed on a meeting place in the center of the city. But while he was walking to the place, he saw a car approaching with several men who looked suspiciously like police officers in plainclothes. He tried to run away, but the men caught him and took him to the local police station. Reportedly, they took away his phone, thoroughly searched it for gay contacts and then copied his photos and some contact details to their own device. Bobur told IPHR that he was released after they found contact details of a man they thought was a good target for extortion.

Police violate the right to privacy, then open criminal cases for “pornography”

In recent years, when detaining LGBTIQ people, predominantly gay men, police officers often forced them to hand over their phones without a court order, and searched through their private correspondence, photos and videos. When they found images of nudity or sexual intercourse that suggested that the person was LGBTIQ and which the individual had shared via social media, police either opened a criminal case for “Illegal production and circulation of pornographic materials or objects” (Article 241 of the Criminal Code) or demanded large bribes in exchange for not opening a criminal case.

While publicly sharing such images may indeed constitute a criminal offence, IPHR is concerned that police appear to specifically target LGBTIQ people and confiscate mobile phones without following legal procedures.

For example, in early May 2023, Sukhrob, a hairdresser, received a phone call from a police officer at a district police station in Dushanbe, summoning him to the police station without any explanation. Afraid that he might get into trouble if he did not comply, Sukhrob went there straight away. As soon as he arrived, police took his mobile phone away and started looking at his private correspondence, contacts and visual material. When they found that he had shared nude photos with gay acquaintances via social media channels they threatened to open a criminal case against him under Article 241 of the Criminal Code. Sukhrob reported: “All they wanted from me was money. They locked me up at the police station for several days, beat me several times, and had me call friends and family to borrow money. Eventually I gave them the equivalent of several hundred dollars and they let me go.” Afraid of reprisals, Sukhrob decided not to lodge a complaint against the police.
Trans people face additional problems

Trans people who do not feel at home in their bodies and wish to change sex as well as those who do not want to make the physical transition struggle with stigma and discrimination and are at great risk of becoming outcasts. Only very few families respect and support the path of a trans person while many cut all ties.

Trans people face an array of problems when the individual’s appearance is not consistent with the name and sex indicated in their passport. It is then impossible for trans 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. Many trans people thus end up engaging in sex work to make ends meet and to earn money to pay for hormones and medical procedures.

National legislation provides for amending identity documents following sex reassignment surgery. Article 73 of the Law on Registering Acts of Civil Status, entitled “State registration of civil status acts”, regulates amendments with regard to names. Article 74 additionally 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, according to a reply from the Ministry of Health and Social Protection of the Population to a request submitted by Larisa Alexandrova, a Tajikistani gender expert, dated 15 October 2020, no sex reassignment surgeries are available in Tajikistan.

Domestic legislation does not set out a clear mechanism of how legislation on name change should be implemented, neither does it provide for changing identity documents based on a person’s gender identity, without sex reassignment surgery. As a result, changing one’s identity document can be a lengthy, cumbersome and expensive process requiring bribing to various officials.

Trans people have very limited access to medical services in Tajikistan. Medical professionals and psychologists typically have little or no expertise on health questions of trans people and there are no official guidelines for professionals to administer hormone therapy.

While prejudice and discrimination against trans people is widespread, most people have little knowledge about them. There are very few media reports that are written in a respectful, factual manner or that give a voice to trans people, their views and experiences.19

Trans woman has to bribe police for protection

Nilufar, a trans woman from Dushanbe wanted to change her ID documents and was successful after agreeing to pay bribes to various officials. Nilufar worked in night clubs where she was sexually abused and raped on several occasions. She decided to move to Russia in the hope that she would be in a better position in an environment where nobody knew her. First, she worked in a night club but eventually she ended up in sex work. On several occasions, clients beat her. Due to her illegal status in Russia, turning to

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19 See, for example the Asia Plus reports История девятая: как в Таджикистане дискриминируют трансженщин, 8 December 2024 and «Я мечтала проснуться девочкой»: таджикская история трансгендерного перехода, 11 October 2022.
the police was not an option. Eventually, the police discovered her illegal status anyway and she was deported to Tajikistan, where she found work in a massage parlour. One day, policemen came to check her documents and told her to stop working there as “such people have no place in Tajikistan”. In 2023, she found work in a beauty parlour. When police came and offered to leave her alone if she gave them a cut of her monthly salary, she agreed.

No safe haven for trans woman fleeing abuse in Tajikistan

A young trans woman from Dushanbe, who has breast implants and takes hormones, approached the authorities with a request to change her ID documents, but everywhere she went she was reportedly told that this was impossible in Tajikistan. After many physical and verbal attacks by relatives and neighbours and after incidents of blackmail by police she saw no other option but to leave Tajikistan. She found a way to cross the borders to Russia without ID documents, but her life in Russia is not better. She has no legal status, earns her living through sex work and reported that she is often subjected to violence and extortion.

International human rights law

Tajikistan’s international human rights commitments

As a party to the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) and other international human rights treaties, Tajikistan has committed to uphold human rights principles that affect LGBTIQ people in the country. This chapter provides a brief overview of these principles. For further information on obligations under international human rights law, refer to the Report of the Office of the United Nations High Commissioner for Human Rights on Discrimination and violence against individuals based on sexual orientation and gender identity that was issued in May 2015.20

There follows an outline of key principles of international human rights law that are frequently violated in Tajikistan in relation to LGBTIQ people.

THE RIGHT TO BE FREE FROM DISCRIMINATION

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

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

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

In May 2016, in General Comment No. 22 the CESCR made it very clear that State parties to the Covenant have an obligation to combat homophobia and transphobia (paragraph 23).

International human rights bodies have stressed that discriminatory laws have a negative impact on public health campaigns against HIV/AIDS.21

THE RIGHT TO BE FREE FROM ARBITRARY ARREST AND DETENTION

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

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

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

THE RIGHT TO BE FREE FROM TORTURE AND ILL-TREATMENT

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

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

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

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The prohibition of torture includes the prohibition of sexual violence and the duty of the state to do its utmost to prevent the perpetration of sexual violence, address any act of sexual violence and guarantee judicial remedies to the victims.22

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

In 2001, in his interim report to the UN General Assembly Sir Nigel Rodley, then Special Rapporteur on torture, expressed concern that LGBT people appear to be “disproportionately subjected to torture and other forms of ill-treatment, because they fail to conform to socially constructed gender expectations” (paragraph 19) and that “[d]iscriminatory attitudes to members of sexual minorities can mean that they are perceived as less credible by law enforcement agencies or not fully entitled to an equal standard of protection, including protection against violence carried out by non-State agents”. He also deplored that “the threat by law enforcement officials to publicly disclose the birth sex of the victim or his or her sexual orientation (inter alia, to family members) may keep a considerable number of victims from reporting abuses” (paragraph 21).23

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

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

THE RIGHT TO HEALTH

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

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

General Comment No. 14 also stipulates that the right to health contains as its essential element accessibility of health facilities, goods and services without discrimination. Especially the most vulnerable

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22 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.
23 https://digitallibrary.un.org/record/446206#record-files-collapse-header
or marginalized groups of the population, must have access to health facilities, goods and services. It should be stressed that a State party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations, as they are considered as non-derogable (paragraph 43).

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

THE RIGHT TO PRIVACY

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

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

The 2006 Political Declaration on HIV/AIDS emphasizes that increased access to HIV testing and treatment should be implemented with the full protection of confidentiality and informed consent. The World Health Organization (WHO) recommends that HIV testing services should follow the five principles of “consent, confidentiality, counselling, correct results and connection with treatment and other services.”

Recommendations by United Nations treaty bodies and under the Universal Periodic Review not implemented

In recent years, the CAT (in 2018), the Committee on the Elimination of Discrimination against Women (CEDAW, 2018), the HRC (2019) and the CESCR (2022) raised concern at the persecution and discrimination of LGBT people and issued important recommendations calling on the Tajikistani authorities to bring both law and practice in line with the country’s obligations as a party to international human rights treaties. However, the government failed to implement the recommendations. While Tajikistan has integrated many UN treaty body recommendations on other human rights concerns into its National Strategy on Human Rights and relevant national action plans and programmes, none of the LGBTIQ related recommendations have been reflected in government programmes and plans.

Instead of combating discrimination and providing effective protection (CESCR 2022, para. 21), strengthening equality legislation and specifically prohibiting discrimination of LGBTIQ people (CAT 2018, para. 50; HRC 2019, para. 16), Tajikistan removed “sex”, “gender”, “sexual orientation” and “gender identity” from the list of prohibited grounds for discrimination before the new Anti-Discrimination Law was adopted in 2022.
The authorities in Tajikistan have also disregarded treaty body recommendations to publicly condemn and act on allegations of torture and other types of ill-treatment against LGBTIQ people and have not investigated and prosecuted the suspected perpetrators (CAT 2018, para. 50; CEDAW 2018, para. 44, part g).

They have failed to engage in countering homophobic and transphobic public discourse including by training police and other officials and conducting public awareness raising campaigns (HRC 2019, para. 16; CESCR 2022, para. 21).

CEDAW recommended the authorities to ensure that civil society groups working on LGBT issues enjoy the rights to freedom of expression, assembly and association (CEDAW 2018, para. 44, part g). Instead, civil society groups and activists continue to be tightly monitored and controlled, always at risk of reprisals and of being shut down.

The treaty bodies additionally called on Tajikistan to stop registering LGBT people (CEDAW 2018, para. 44, part g; HRC 2019, para. 16). While the authorities have claimed not to keep such a list, several civil society activists to whom IPHR spoke are convinced that this is not true.

During the Human Rights Council’s Universal Periodic Review of Tajikistan in November 2021, several countries recommended Tajikistan to protect the human rights of LGBT people, to adopt comprehensive anti-discrimination legislation explicitly protecting this group, to cease all discrimination in practice, to stop registering LGBT people, and to conduct awareness raising campaigns aimed at countering stigma and prejudice in society. In all cases when recommendations focused on the rights of LGBTIQ people, Tajikistan did not support, but only “noted” the recommendation.

**Recommendations to the authorities of Tajikistan**

- Swiftly implement all recommendations related to LGBTIQ people issued by the Committee against Torture (in 2018), the Committee on the Elimination of Discrimination against Women (2018), the Human Rights Committee (2019), and the Committee on Economic, Social and Cultural Rights (2022).
- Amend the Law on Equality and Elimination of all Forms of Discrimination and introduce “gender”, “gender identity” and “sexual orientation” as prohibited ground for discrimination.
- Establish an effective, accessible and strictly confidential system for receiving and processing complaints about discrimination, arbitrary detention, extortion and torture or other forms of ill-treatment, taking into consideration the specific vulnerabilities of LGBTIQ people.
- Introduce a policy of zero tolerance for torture, ill-treatment and extortion with regard to all detainees regardless of their sexual orientation or gender identity and punish the perpetrators in fair proceedings.
- Make voluntary and confidential HIV testing widely available and ensure that no one is forced to undergo tests for HIV/AIDS, in line with the International Guidelines on HIV/AIDS and Human Rights.
• Amend domestic legislation to clarify that medical institutions are only permitted to disclose information about a person’s health status based on a court decision and provide for liability for the unauthorised disclosure of such data.

• Amend Article 125 of the Criminal Code to the effect that no charges are brought when there is no conclusive evidence of HIV transmission to another person, e.g. when a person has an undetectable viral load and is not infectious; when the person took precautions such as male or female condoms; or when the sexual partner has no claims against the HIV-positive person.

• Review all past convictions handed down under Article 125, part 1, and release all those who were convicted without evidence of HIV-transmission to another person.

• End the widespread police practice of extracting mobile phones from LGBTIQ people and searching their private correspondence and visual material without a court sanction.

• Develop and approve instructions on the procedure for State registration of civil status acts, taking into account the possibility of registering gender reassignment.

• Develop and approve a protocol for the provision of medical treatment to transgender, transsexual and gender-nonconforming people in accordance with international medical standards and train medical professionals accordingly.

• Ensure that all civil society activists, including those working on human rights, health and other issues affecting LGBTIQ, can go about their peaceful activities without undue interference.

• Promote tolerance of LGBTIQ people including through public awareness raising.