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INDIVIDUAL SUBMISSION

This report is submitted by the Sexual Rights Initiative and an anonymous human rights defender from Tajikistan



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The Sexual Rights Initiative is a coalition of national and regional organizations based in Canada, Poland, India, Argentina, and South Africa that work together to advance human rights related to sexuality at the United Nations.

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Executive Summary

1. This report has been prepared by an anonymous human rights defender and the Sexual Rights Initiative (SRI). It seeks to highlight the existing and ongoing human rights violations against marginalized groups, including LGBTI persons and sex workers, and access to sexual and reproductive health and rights. It also outlines Tajikistan's commitment to provision and protection of rights through various national and international mechanisms, including the previous cycle of the Universal Periodic Review (UPR) and the relevant recommendations.

Violations based on Sexual Orientation, Gender Identity and Expression

2. Despite advocacy and submissions to previous cycles of the UPR, Tajikistan has yet to receive a recommendation on addressing human rights violations experienced by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons. However, other treaty monitoring bodies have consistently raised concerns on this issue and demanded state action to prevent and eliminate violence and discrimination based on sexual orientation and gender identity, including the committee against torture, committee on the elimination of discrimination against women and the human rights committee.
3. LGBTI persons in Tajikistan, especially LBT+ women and LGBTI adolescents, face wide-spread hate-crimes, discrimination; and domestic, physical, psychological and sexual violence. The overall sentiment and actions of the government towards LGBTI people, including violence perpetrated by the police, is cruel, demeaning and constitutes major violations of human rights. Recently, the pressure from governmental officials has forced almost all LGBTI organisations and initiatives in Tajikistan to completely stop their work. Victims and survivors of hate crimes, violence and discrimination are left without legal, psychological and medical help.
4. There are many cases of transgender people or non-heterosexual women who experience domestic and even sexual violence from their close relatives. Sexual violence aimed at "correcting or changing" sexual orientation or gender identity by sexual violence is still widely practiced in Tajikistan. Many of them are forced to get married or leave their homes to escape the violence. Many LGBTI teenagers, kicked out from their homes, end up living on the streets. There were cases of gay men that were killed by relatives in the guise of saving so-called honor of the family, often disguised as death by drug overdose. The victims of such violence also cannot register their cases with the police or start legal proceedings because violence against LGBTI people by law enforcement is not only widely practiced but also encouraged by government officials.
5. Wide-spread stigma based on sexual orientation, gender identity and expression is openly supported by governmental officials and state media, and results in discrimination in access to employment, education and housing. This includes being fired from jobs, excluded from universities and denied housing when the landlords, school administration or work colleagues find out their sexual orientation and gender identity. The government also enforces strict rules for clothing when entering public institutions, including recommendations on men's and women's appearance: what exactly they should wear, what kind of haircut they should have, which cosmetics are allowed, etc. Some people are denied access to gyms, supermarkets, bars, restaurants, night clubs and other public areas because of their "non-traditional" appearance. There were also cases of young men who did not fit into the expectations of "traditional" gender expression, wearing "radical" western clothing like slim trousers or being perceived as acting feminine, being arrested and blackmailed by the police.

6. Tajikistan decriminalized consensual homosexual relations between (male) adults in 1998, but law enforcement in Tajikistan, encouraged by the government's directives, continues to view homosexuality as a crime against "disturbance of public order." In 2017, the Ministry of Internal Affairs (MIA) and the Prosecutor General's Office of Tajikistan compiled a list of about 370 "proven" LGBT people, under the pretext of ensuring national security, public order and public health. They were identified during operations of the MIA under the code names "Morality" and "Purge." The MIA continues to expand the list, despite activists raising concerns that the names on the list are compiled by blackmailing, threatening and torturing LGBT people. The MIA uses threats of forced exposure of LGBT people by sharing videos on social media and revealing their sexual orientation or gender identity to their relatives; through physical, psychological and even sexual violence, and even forcing them to share contact information of their friends and partners from the LGBTI community, and seizing and accessing their mobile phones. Some police officers even register themselves on gay dating apps, to arrange fake dates with potential victims to meet and extort money from them.
7. There is constant fear of being detained and tortured by the police, who can act with complete impunity. There are cases of people being framed or forced to confess to crimes they didn't commit, or arbitrarily arrested and detained. The lack of access to justice, remedy, and support forces LGBTI people to migrate to other countries, mostly to the Russian Federation, which is also not a safe place for LGBTI people. Some people are not able to migrate because of lack of financial resources or their passports and other documents being seized by their relatives. They have to deal with humiliation every day, live "double lives" pretending to be heterosexual or cisgender, be forced to get married, with some even resorting to commit suicide. There are many cases like this, including that of Khuram, who has to pretend to be a cisgender man when she returns back from Russia to Tajikistan to see her family. She has to remove her makeup and breast implants, changes clothes, cut hair, and alters behaviour and habits. She cannot change her gender marker and name in her passport because of the possible transphobic backlash from her family and friends, but also because there are no clear procedures or laws that allow the change of identity documents for trans people.
8. Some families of LGBTI people try to "cure" them by forcing them to undergo "treatment" using religious practices like praying or reading the Quran, forcing them to fast, and even through physical violence like beating them with a whip. LGBTI people are forcefully detained in these "special" religious "treatment centers" and houses. Psychiatrists in Tajikistan consider homosexuality a pathology and encourage these conversion therapies. The chief psychiatrist of Tajikistan, Khurshed Kunguratov,:

"This (homosexuality) is a complete deviation. If anyone needs it, we will help as much as possible. First, we will talk: why it happened, where it came from. And then we treat it. We treat it with a guarantee."

9. Medical specialists also hold strong prejudices against LGBTI people. Medical schools in Tajikistan teach about homosexuality as sexual abnormality, and LGBTI people are not considered healthy, autonomous beings. There are also concerns about confidentiality when accessing health services. The AIDS Center, a semi-governmental institution that provides services like testing and treatment against HIV, have leaked information about its gay clients to law enforcement. Accessing medical services always comes with the risk of humiliation and forced outing to their families. LGBTI organisations and initiatives in Tajikistan are trying to build a network of LGBTI-friendly medical specialists, but most of them are in Dushanbe, the capital city. It is hard for LGBTI organisations to reach out to healthcare specialists, especially if they work for state hospitals or in rural areas, leaving people with little or no options of accessing care.

10. Local groups and organisations that work with LGBTI clients are also vulnerable to discrimination and violence. Government authorities often verbally attack organizations that support LGBTI people, and demand them to be banned. Projects and funding related to HIV work with MSM (men who have sex with other men) was also removed from the national strategy to combat HIV/AIDS in Tajikistan. Currently, almost all LGBTI initiatives and organisations have ceased to exist or function.

Violations of Sex Workers' Rights

11. Despite advocacy during previous UPR cycles, Tajikistan has failed to receive recommendations on the rights of sex workers. Discrimination and violence against sex workers are highly prevalent. Sex workers are often subjected to police violence, in particular through police raids, sexual violence, extortion and intimidation. Sex workers are also forced to go through HIV and STI testing to establish evidence for "crimes against morality".
12. . While sex work per se is not criminalized, all activities surrounding sex work is criminalized resulting in de facto criminalization of sex work. Selling of services is legal but related activities such as soliciting, procuring and brothel keeping are strictly prohibited. Sex work is punishable by an administrative fine ranging from 500 to 2650 somoni (45 - 235 USD). This fine has been reviewed and increased several times in the last 5 years. Running a "brothel" is a criminal offense with a maximum sentence of five years in prison and a fine from 8 000 to 10 000 somoni (700-1000 USD). Those who commit a crime again face up to eight years in prison. According to the Shah-Ayym network, the new 15-day law is mostly used as a threat to extort and rape sex workers, and to get them to share information about their wealthy clients. The frequency of police raids have also intensified since the introduction of these new laws.
13. Women detained during those raids are forcibly taken to undergo a medical examination and to be tested for HIV and STIs. Their arrest and detention is published in their community, they are added to a police registry, and their (forced) confessions are recorded and shared on social media. Government officials also conduct awareness campaigns to disseminate "morality lessons" for sex workers. These lessons involve doctors, law enforcement officials, and local community leaders lecturing about the dangers of being involved in sex work.
14. Sex work is a highly stigmatized profession in Tajikistan. Sex workers often keep the source of their income secret from their relatives, fearing strong reactions. Many sex workers have had to leave their families and homes to escape from the stigma. Health care systems are steeped in stigma against sex work. Due to the criminalized nature of sex work, there is no guaranteed right to confidentiality when accessing health services, due to fear of being reported to the police. Sex workers are also denied access to services, discriminated by health professional. Sex workers avoid accessing sexual and reproductive services, including HIV testing and treating, putting their health and well-being at risk. The state also criminalizes HIV transmission. In 2018, a sex worker was sentenced to one year in prison for transmitting HIV to 10 men.
15. Currently, Tajikistan's parliament is set to amend the country's Family Law to deprive convicted pimps and "brothel" owners of parental rights by placing their underage children in custody of the state. The bill is widely expected to be approved. Lawmakers and supporters of the legislation say it is aimed at "tackling prostitution and protecting children."
16. Tajikistan's State Committee for Women and Family Affairs has been involved in drafting the bill. They believe the threat of taking away the custody of children would force people to think twice before getting involved in the "risky business." Further, it is justified as a means to protect the mental and physical well-being of children, as "when the women are busy at work at night, the children are at

home alone.” The State Committee has also proposed further criminalization for both sex workers and clients, including higher fines.

Access to Sexual and Reproductive Health Care

17. During the last UPR cycle, Tajikistan accepted the following recommendations:
 - Strengthen sexual and reproductive health education, as recommended by the CESCR (Slovenia)
 - Improve the quality, availability and accessibility of primary health-care services, to reduce high rates of infant and maternal mortality. (Maldives)
18. The accessibility to sexual and reproductive health services is limited for most people in Tajikistan, but especially for marginalized groups including LGBTI people, sex workers and youth. Harmful traditional practices are also prevalent, including ‘restoration’ of the hymen. Many young girls are forced to undergo surgery to ‘restore’ their hymen as it is a sign of a girl’s virginity and required for marriage. The absence of signs of ‘innocence’ the morning after the wedding (namely, blood stains on the bed) can result in men divorcing the women.
19. Sexual relations are considered taboo for unmarried girls in Tajikistan. Pregnant unmarried girls and their parents will often resort to unsafe abortions at home as getting an abortion at a hospital could result in publicization in their community. Unsafe abortions often lead to health complications including maternal mortality and morbidity.
20. In Tajikistan, abortion has been legalized since 1955, and should be provided on request within 12 weeks of pregnancy. However, there are no national guidelines for induced abortion, no guidelines for post-abortion care, and approval for medical abortion has not been considered or addressed. The Ministry of Healthcare approved the Strategic Plan of the Republic of Tajikistan on Safe Abortion Services in 2008, However, it has not been implemented; the cost of its implementation was never determined and no funds have been allocated for its implementation.
21. Reproductive health centers, established under the auspices of the Ministry of Health and supported by UNFPA, offer women some forms of contraception: pills, injections and condoms. They are available to the local population free of charge. However, many women are not aware of these centers. §In Tajikistan one in every five women are not able to access contraception due to limited family planning and reproductive services (especially in rural areas), a narrow range of options and high costs for contraception. The nation-wide demographic and health survey conducted by Statistics Agency of Tajikistan indicates that since 2012 a percentage of married women using modern contraception, practically did not change, and many are still afraid to go to the reproductive health centers for consultation and access contraception.
22. The access to reproductive health services and family planning is further limited for women and girls with disabilities. They are subjected to health professionals or guardians making decisions for them, which includes either ignorance of their sexuality and reproductive needs, or over medication to control their body and its function. Health centers, antenatal clinics, maternity hospitals, hospitals and reproductive centers are also not physically accessible for people with disabilities.
23. The Law on Reproductive Health and Reproductive Rights was adopted in 2002 by the Tajik Parliament and in an amendment from 2015, sexuality education was mandated to be added to school curriculums. However, the curriculum was poorly designed, requiring only few hours of teaching about basic contraception.

24. Moreover, according to the Law of Tajikistan on combating HIV and AIDS, educational institutions are obliged to include sexuality education in the curricula and educational activities and to provide students with complete, high-quality and accessible information on HIV prevention. The reproductive health laws in Tajikistan explicitly recognize the rights of adolescents to sexuality education in school and to protect their sexual and reproductive health. However, these laws are not being fully implemented. Information about HIV, other STIs and sexuality education in general is provided only partially and not in all schools. Especially, in rural schools there are no classes on these issues.
25. Sexuality education in Tajikistan reiterates non-scientific, misleading and stigmatizing information about sexual and reproductive health, including on abortion, contraception, family planning and consent. There is a severe need of comprehensive sexuality education and other rights and evidence-based information about sexual and reproductive health and rights.

Recommendations

1. Introduce comprehensive legislation, policies, programs to prevent and eliminate discrimination based on sexual orientation, gender identity and expression (SOGIE). To ensure accountability, establish mechanisms to monitor and collect data on discrimination and violence based on SOGIE or perceived SOGIE.
2. Develop and implement programs, including nation-wide awareness building campaigns for the general population in order to overcome prejudices that cause hatred and violence through the state media and public institutions.
3. Ban conversion therapies and introduce criminal and administrative measures against coercive treatment of homosexuality.
4. Develop mechanisms to provide comprehensive legal, psychological and medical assistance to victims of hate crimes, discrimination and violence, including for sex workers and LGBTI people, especially LGBTI children.
5. Change education and training curriculum for medical professionals to eliminate pathologizing LGBTI people. Introduce modern, scientific, accurate information on sexuality and gender.
6. Investigate, publicly acknowledge and condemn violence and torture towards LGBTI people by law enforcement agencies.
7. Abolish the “morality” raids as well as compiling “morality lists” of LGBTI and sex workers.
8. Introduce and implement clear procedures for changing names and gender markers for transgender individuals.
9. Fully decriminalize sex work in Tajikistan. Repeal all relevant legislation and regulations used to arrest, detain and abuse sex workers, and do not pass the bill proposing to remove parental rights.
10. Ensure universal and affordable access to sexual and reproductive health care, services and information, focusing on the needs of marginalized communities including LGBTI people, sex workers and youth.

11. Establish compulsory comprehensive sexuality education as a standalone subject in school curriculum. Ensure compliance with UNESCO International Technical Guidance on Sexuality Education and UNFPA Operational Guidance for Comprehensive Sexuality Education.