



Written Statement of David Stacy
Government Affairs Director
Human Rights Campaign

Civil and Political Rights in Uzbekistan and Central Asia:
Implications for Post-2014 U.S. Foreign Policy

Tom Lantos Human Rights Commission
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I. Introduction

On behalf of the Human Rights Campaign's more than one and a half million members and supporters nationwide, I write in regards to the Commission's briefing on civil and political rights in Central Asia. As the nation's largest organization working to achieve equal rights for the lesbian, gay, bisexual, and transgender (LGBT) community, HRC strongly supports the Commission's efforts to engage this issue and to provide a space for exploring the human rights of LGBT people in Central Asia.

According to the Department of State 2013 Country Reports on Human Rights Practices, all five Central Asian republics – Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan – have human rights records laden with grave abuses. As former members of the Soviet Union, these countries continue to be influenced, and possibly manipulated by, Russia's far reaching power. Unfortunately, these country's relationships with Russia have influenced their treatment of LGBT individuals. Several Central Asian countries continue to criminalize same-sex sexual activity, while others have directly imitated Russia's "anti-propaganda" laws that have the effect of criminalizing LGBT advocacy.

Advocates and the media have focused a great deal of attention on anti-LGBT laws and attitudes throughout Africa, Russia, and countries in the Middle East. While the situation in these regions continue to merit vigilance, the Central Asian republics warrant equal scrutiny since they continue to be unsafe places for their LGBT citizens.

II. Central Asian Countries

Kazakhstan

Kazakhstan decriminalized consensual same-sex sexual activity in 1998.¹ However, individuals whose sexual orientation is publicly known face physical and verbal abuse, risk of being fired from their job, denial of healthcare, and harassment from law enforcement. According to the Department of State 2013 Country Reports on Human Rights Practices, negative social attitudes against the LGBT community have effectively prevented the community from organizing and have impeded their willingness to seek access to HIV programs.² The report also notes that

¹ International Lesbian, Gay, Bisexual, Transgender, and Intersex Association (ILGA), *State-Sponsored Homophobia, A World Survey of Laws: Criminalization, Protection, and Recognition of Same-Sex Love* 16 (2014), http://old.ilga.org/Statehomophobia/ILGA_SSHR_2014_Eng.pdf.

² U.S. Department of State, *Country Reports on Human Rights Practices for 2013*, 32 (2014),

government-run HIV clinics have been accused of breaching confidentiality and reporting patients' sexual orientation to their family or employer.³ In Kazakhstan's 2014 Universal Periodic Review (UPR), Spain recommended Kazakhstan strengthen the legal framework for the protection and non-discrimination of LGBTI people, a recommendation Kazakhstan has neither accepted nor rejected outright.⁴

In addition, Kazakhstan has been influenced by Russia's continuing hostility toward the LGBT community. An increase in anti-homosexual rhetoric culminated in the introduction of a Russian-style "anti-propaganda" law that prohibits "propagandizing non-traditional sexual orientation."⁵ Politicians claimed to be promoting the protection of public morality, as part of a broad bill entitled "On Protecting Children from Information Harmful to Their Health and Development."⁶ Fortunately, in May 2015, the country's Constitutional Council blocked the bill from becoming law.

Kyrgyzstan

Kyrgyzstan's LGBT record is similar to its northern neighbor Kazakhstan. While Kyrgyzstan decriminalized same-sex sexual activity in 1998,⁷ the Department of State reports that police continue to arrest individuals for the "crime" of homosexuality.⁸ Non-governmental organizations (NGO's) have reported cases of police extortion against LGBT individuals, and noted that the entire Kyrgyz LGBT population is "susceptible to a continual cycle of police extortion and exploitation."⁹ Same-sex sexual conduct is still socially unacceptable in many parts of the country, which makes it difficult to take legal action against perpetrators of such abuses. In addition, the report notes continual oppression against LGBT individuals that the government has failed to address, such as prison officials openly assaulting gay men and reports of doctors who have refused to treat LGBT individuals.¹⁰

<http://www.state.gov/documents/organization/220605.pdf>.

³ *Id.*

⁴ UPR Info, *Reponses to Recommendations & Voluntary Pledges*, <http://www.upr-info.org/en> (last visited June 23, 2015).

⁵ Susie Armitage, *Kazakhstan May Soon Have A "Gay Propaganda" Ban Of Its Own*, Buzzfeed, <http://www.buzzfeed.com/susiearmitage/kazakhstan-may-soon-have-a-gay-propaganda-ban-of-its-own#.yq0OLq0J7w> (last visited June 23, 2015).

⁶ *Id.*

⁷ U.S. Department of State, *Country Reports on Human Rights Practices for 2013*, 30 (2014), <http://www.state.gov/documents/organization/220607.pdf>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Also modeled after the Russian “anti-propaganda” law, in March 2014, the Kyrgyz parliament published a bill that would impose criminal sanctions for spreading information about homosexuality or LGBT issues.¹¹ Advocates have learned that legislators are eager to pass the bill before the end of the 2015 legislative session. Human rights activists in Europe have been putting pressure on President Atambayev to reject the bill and Kyrgyz activists have asked others to bring as much attention to this bill as possible.¹²

In addition, the Kyrgyz parliament has advanced a bill that would severely stifle the country’s NGO community by requiring NGO’s that receive support from abroad to register as a “foreign agent,” which would restrict foreign funding and inflict burdensome reporting requirements.¹³ A lawmaker who co-sponsored the bill said that its introduction was necessary in order to stifle the “efforts by some Western-funded organizations to educate young Kyrgyz about gay rights and reproductive health.”¹⁴ <http://www.telegraph.co.uk/news/uknews/queen-elizabeth-II/11696166/Queen-baffled-by-portrait-gift-as-she-asks-German-president-Is-that-supposed-to-be-my-father.html>

Tajikistan

LGBT individuals in Tajikistan face similar harassment and extortion by law enforcement as LGBT individuals throughout Central Asia, including threats of being “outed” by security forces to their families and employers. Hate crimes against LGBT people routinely go unaddressed by law enforcement, and LGBT persons continue to face police harassment and threats of public beatings.¹⁵ In addition, the country provides no legal protection against discrimination on the basis of sexual orientation or gender identity.

While same-sex sexual conduct is legal, the Department of State reports that “homophobic attitudes and little societal tolerance....[make it] rare for individuals to disclose their sexual

¹¹ *Supra* note 1, at 19.

¹² Colin Stewart, *Pressure on Kyrgyzstan to Derail Russia-Style Anti-LGBTI Bill*, 76 Crimes Blog, <http://76crimes.com/2015/03/25/pressure-on-kyrgyzstan-to-derail-russia-style-anti-lgbti-bill/> (last visited June 23, 2015). On June 24, 2015, the bill received another procedural reading the Kyrgyz parliament.

¹³ David Trilling, *Kyrgyzstan Passes “Foreign Agents” Bill in Preliminary Vote*, Central Asia Today, <http://www.eurasianet.org/node/73721> (last visited June 23, 2015).

¹⁴ *Id.*

¹⁵ U.S. Department of State, *Country Reports on Human Rights Practices for 2013*, 26 (2014), <http://www.state.gov/documents/organization/220618.pdf>.

orientation.”¹⁶ Transgender individuals experience unique difficulties, such as significant problems changing identity documents. Although Tajik law does allow an individual to change identity documents if a medical organization provides an “authorized document,” incredibly, the Department of State notes that “because a document of this form does not exist...it is impossible for transgender persons to change their legal identity to match their gender.”¹⁷

Turkmenistan

Turkmenistan also criminalizes same-sex conduct only between men, which is punishable by up to two years in prison. Unfortunately, the law also permits the imposition of an additional two to five years in a labor camp.¹⁸ Subsequent sections of the law stipulate sentences of up to 20 years for repeated acts of same-sex sexual conduct and the spread of HIV through same-sex sexual conduct. The Department of State reports that nondiscrimination laws do not apply to LGBT individuals and that society generally does not accept transgender individuals.¹⁹ Finally, because sexual orientation and gender identity issues are taboo within society, social stigma continues to prevent reporting of bias motivated incidents.²⁰

Since its last UPR review, Turkmenistan has been unwilling to implement a recommendation that called for decriminalizing same-sex consensual relationships among men or to pass nondiscrimination protections for the LGBT community.²¹

Uzbekistan

Uzbekistan criminalizes same-sex sexual conduct only between men, which is punishable by up to three years in prison.²² Although the Department of State reports that there have been no known arrests or convictions since 2003, advocates claim that threats of prosecution are used to extort heavy bribes from gay men.²³ And while there have been no official reports of societal

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ U.S. Department of State, *Country Reports on Human Rights Practices for 2013*, 24 (2014), <http://www.state.gov/documents/organization/220620.pdf>.

¹⁹ *Id.*

²⁰ *Id.*

²¹ UPR Info, *Responses to Recommendations & Voluntary Pledges*, <http://www.upr-info.org/en> (last visited June 23, 2015).

²² See Legislation Online, *Criminal Code of the Republic of Uzbekistan, Article 120* (“Homosexual Intercourse”), <http://www.legislationonline.org/documents/id/8931> (last visited June 23, 2015).

²³ U.S. Department of State, *Country Reports on Human Rights Practices for 2013*, 33 (2014), <http://www.state.gov/documents/organization/220622.pdf>.

abuse, this is often attributed to the continuing societal disapproval of LGBT individuals which prevents them from coming forward.

Since its last UPR review, Uzbekistan has been unwilling to implement recommendations that call for decriminalizing same-sex consensual relationships among men or pass nondiscrimination protections for the LGBT community, arguing that these protections are not part of the country's "obligations under internationally agreed human rights standards."²⁴

III. **Suggested Policy Recommendations**

To that end, HRC urges the Department of State to:

- Work more closely with its Embassies in the region to emphasize the importance of protecting the human and civil rights of LGBT persons in those countries.
- Encourage Kazakhstan, in bilateral conversations, to accept the UPR recommendation²⁵ that any programs providing HIV/AIDS treatment should not discriminate against LGBT individuals.
- Work with colleagues in the Administration and Members of Congress to encourage the Kyrgyz government to reject the anti-propaganda legislation and NGO "foreign agent" legislation currently under consideration.
- Encourage Tajikistan to prevent violence against LGBT people and provide documents that would enable transgender people to change their gender on their official documents.
- Advocate that Uzbekistan decriminalize all same-sex consensual relationships and ensure that law enforcement is not engaging in extortion of LGBT people.
- Advocate that Turkmenistan decriminalize all same-sex consensual relationships.

²⁴ UPR Info, *Responses to Recommendations & Voluntary Pledges*, <http://www.upr-info.org/en> (last visited June 23, 2015).

²⁵ *Supra* note 6.

IV. **Conclusion**

The fight for full LGBT equality in this country and around the world is far from over. Shining light on the anti-LGBT laws and attitudes in Central Asia is a significant first step to working to ensure that all people – in all countries – are afforded the full and equal treatment that they deserve. Thank you for the opportunity to provide this information to the Commission. Please do not hesitate to contact me at david.stacy@hrc.org or 202-257-7347, or my staff, as you continue to study this important subject.