Australian Government

Refugee Review Tribunal

Country Advice

Uzbekistan

Uzbekistan – UZB37066 – Homosexuals – Advocacy groups – Militias – Law enforcement – Internal relocation – Mahalla – Exit permits

3 August 2010

1. Please provide a brief background on the situation of homosexuals and/or transgender people in Uzbekistan.

Uzbekistan is considered a publicly homophobic society in which the rights of lesbian, gay, bisexual and transgender (LGBT) Uzbeks are poorly respected.[1] The most obvious illustration of this is the criminalisation of male homosexual sex under Article 120 of the 1994 Criminal Code. People found guilty under Article 120 may be imprisoned for up to three years; however, sexual activity between women is not criminalised.[2] In this context, homosexuality is rarely discussed in public and is stigmatised in the state controlled media and by government officials.[3] Homosexuals also face regular police harassment and have been subjected to extortion, humiliation and torture and have been subjected to vandalism of their property and physical abuse by members of the community. Lesbian women in particular have endured sexual harassment at work and a small survey of lesbian women suggests that sexual violence against lesbian women is common.[4]

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[1] Immigration and Refugee Board of Canada 2007, *UZB102392.E Uzbekistan: Treatment of homosexuals by society and by government authorities; legal recourse and protection available to homosexuals who have been subject to ill-treatment (2003-2007)*, 6 March - Attachment 1; UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan*, March http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 – Attachment 2.

[2] Ottosson, D. 2010, *State-sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults*, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), May - Attachment 3; Republic of Uzbekistan 1994, 'Article 120 – Besoqolbozlik* (Homosexual Intercourse)', *Criminal Code of the Republic of Uzbekistan*, 22 September http://www.legislationline.org/download/action/download/id/1712/file/a45cbf3cc66c17f04420786aa164.htm/preview - Accessed 23 July 2010 - Attachment 4; World Organisation Against Torture 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010 - Attachment 5; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December – Attachment 6.

[3] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December. Attachment 6; Immigration and Refugee Board of Canada 2007, *UZB102392.E Uzbekistan: Treatment of homosexuals by society and by government authorities; legal recourse and protection available to homosexuals who have been subject to ill-treatment (2003-2007)*, 6 March - Attachment 1.

[4] UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan*, March, http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 - Attachment 2; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December – Attachment 6; Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 – Attachment 7; Labrys Kyrgyzstan 2010, *Discrimination and Violence Against Lesbian and Bisexual Women and Transgender people in Uzbekistan – Shadow Report submitted to the 45th CEDAW Session*, January 2010 http://www2.ohchr.org/english/bodies/cedaw/docs/LGBTO_E.pdf - Accessed 23 July 2010 - Attachment 8.

Article 120 of the 1994 Criminal Code of Uzbekistan prohibits same-sex activity between consenting adult males under the crime of *Besoqolbozlik* (Homosexual Intercourse) and people found guilty of this offence may be imprisoned for up to three years. Sexual activity between women is not, however, criminalised.[5] The International Research Centre on Social Minorities (IRCSM) conducted a fact-finding mission to Uzbekistan from 4 to 19 June 2004 in order to obtain information on different types of violations of the rights of sexual minorities, including discrimination, torture and ill-treatment and arbitrary arrests. In its report, noting the absence of formal government statistics on this matter, IRCSM notes that it has received information that 'a considerable and increasing number of men are prosecuted and convicted under Article 120 every year' and that 'once prosecutions are brought a conviction is virtually certain'.[6]

Homosexuality is rarely discussed publicly in Uzbekistan and in its 2010 Shadow Report submitted to the 45th Session of the Committee for the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), Labrys Kyrgyzstan (an LGBT human rights non-government organisation based in Kyrgyzstan) reports that, through its official media outlets, the Uzbek Government has expressed its disapproval of alternative sexualities and called for censorship of information.[7] Given the criminalisation of homosexuality and the stigmatisation of homosexuality in the media, the IRCSM found 'professed public opinion in Uzbekistan to be extremely homophobic'.[8] Interestingly, the IRCSM found that while most people are not necessarily homophobic in private, they feel compelled to be publicly homophobic for fear of being labelled homosexual themselves and being charged under Article 120 or harassed and/or extorted.[9]

The criminalisation of male homosexuality in Uzbekistan leads to discrimination, abuse by law enforcement officials and curtailment of non-government organisation activity. While the constitution and law prohibit arbitrary arrest and detention, in its 2009 Human Rights Report on Uzbekistan (published in 2010), the US Department of State noted that corruption among law enforcement personnel continues to be a problem and that '[p]olice routinely and arbitrarily detained citizens to extort bribes'.[10] In 2002, the United Nations Special Rapporteur on Torture visited Uzbekistan and in 2003 reported that he had:

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[5] Ottosson, D 2010, *State-sponsored Homophobia: A World Survey of Laws Prohibiting Same Sex Activity Between Consenting Adults*, International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), May - Attachment 3; Republic of Uzbekistan 1994, 'Article 120 – Besoqolbozlik* (Homosexual Intercourse)', *Criminal Code of the Republic of Uzbekistan*, 22 September http://www.legislationline.org/download/action/download/id/1712/file/a45cbf3cc66c17f04420786aa164.htm/preview - Accessed 23 July 2010 - Attachment 4; World Organisation Against Torture 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010 Attachment 5; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6.

[6] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.14 - Attachment 6.

[7] Immigration and Refugee Board of Canada 2007, *UZB102392.E Uzbekistan: Treatment of homosexuals by society and by government authorities; legal recourse and protection available to homosexuals who have been subject to ill-treatment (2003-2007)*, 6 March - Attachment 1; Labrys Kyrgyzstan 2010, *Discrimination and Violence Against Lesbian and Bisexual Women and Transgender people in Uzbekistan – Shadow Report submitted to the 45th CEDAW Session*, January 2010 http://www2.ohchr.org/english/bodies/cedaw/docs/LGBTO_E.pdf - Accessed 23 July 2010 - Attachment 8.

[8] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.5 - Attachment 6.

[9] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6.

[10] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 7 July 2010 – Attachment 9.

> received information according to which persons belonging to sexual minorities have been subjected to various forms of torture, including of a sexual nature, and harassment, and to have been arbitrarily detained with a view to threatening or punishing them and to obtaining bribes.[11]

With respect to extortion, the IRCSM report noted that the taking of bribes by militia in exchange for not bringing charges under Article 120 against individuals 'is said to have become an integral part of the criminal justice system and an important source of income for law enforcement officers', with cases of entrapment of homosexual men having also been reported.[12]

In the event that men accused of homosexuality are detained under Article 120, there are multiple reports by human rights organisations and also by UNHCR and the former United Kingdom Ambassador to Tashkent, of detained men being subjected to violence and degrading ill-treatment by officials, including anal rape, the threat of anal rape, beatings, being partially stripped, and being threatened with rape with broken bottles.[13] While the Uzbek Government has undertaken not to use torture, which is prohibited by the constitution and Criminal Code, 'law enforcement and security officers routinely beat and otherwise mistreat detainees to obtain confessions or incriminating information'.[14] The US Department of State has also reported that, irrespective of the charge, '[t]orture and abuse were common in prisons, pretrial facilities, and local police and security service precincts'.

In addition to violence perpetrated by officials, LGBT individuals are reportedly subjected to violence from their communities, but due to the criminalisation of male homosexuality, much of this violence goes unreported for fear of being charged under Article 120.[15] The IRCSM report presents a number of case studies of people who have suffered harm as a result of their homosexuality or suspected homosexuality. Some of these case studies illustrate community involvement in acts of vandalism and violence. For example, AA (name withheld) is described as a Russian working in an international organisation in Tashkent, who has been repeatedly harassed by militia since 2002. The report states that he has been accused by the militia of being homosexual although no charges have been

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[11] Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March, p.4 http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.3 - Attachment 6.

[12] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.15 - Attachment 6.

[13] UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan*, March, p.54 http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 - Attachment 2; Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March, p.6 http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p16 - Attachment 6.

[14] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 7 July 2010 – Attachment 9

[15] Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p16 - Attachment 6.

laid and he has consequently been beaten and had money extorted from him. In January 2004, after being taken from work for the fourth time for questioning by the militia who assaulted him, '[h]e came back home…and found his front door and walls had been sprayed with graffiti: "You queer - you cannot hide - we will get you". AA took his money and documents, and fled his home'. In another case study, a male cross-dresser, who was staying at the second apartment of a married homosexual man, reported that 'he had been badly beaten in the street by members of the public but was afraid of taking a complaint to the militia'.[16]

Under Uzbek law, while the presumption of innocence exists, investigators can notify the employers and the person's mahalla[17] of those who are under investigation. Therefore, even if charges are not laid, men who are investigated under Article 120 lose their right to privacy and confidentiality. Furthermore, if convicted under Article 120, because it is a criminal offence, it is recorded in a person's internal passport and workbook which they carry from job to job until retirement, so this information is continually publicly accessible. As a criminal offence, men convicted under Article 120 are also unable to legally leave Uzbekistan.[18]

Although lesbian and bisexual women are not considered criminals, sexual violence and sexual harassment against lesbian and bisexual women appears widespread. The Labrys Kyrgyzstan 2010 CEDAW Shadow Report contains the findings of a small survey of 30 lesbian and bisexual women living in Tashkent:

> Out of the surveyed women three-fourths experienced sexual violence either at home or on the street but most commonly at home which is almost considered to be a norm. Almost all women mentioned being sexually harassed by men at some point in their lives.[19]

The same report also noted that lesbian and bisexual women are unable 'to organize in Uzbekistan due to fear of government persecution' and that cases of sexual harassment at work, particularly towards lesbian women who were open about their sexuality, were reported.[20] Although lesbian activity is not criminalised, one report was found suggesting that an Uzbek woman seeking asylum in the US was arrested and gaoled because of her sexuality; however, the actual charge under which she was arrested and convicted is not clear. This story, which is excerpted from the testimony of Mr George Fesser, the Coordinator of Immigrant Support Services at the Lesbian, Gay, Bisexual and Transgender Community Centre in New York, provides an example of alleged sexual assault perpetrated by police officers against a lesbian:

> I would like to take this opportunity to share the story of Bethany – a 23-year-old woman who came to the Center seeking support after she arrived from Uzbekistan a few days earlier with a suitcase and $500 in her pocket.
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> …
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> When she later sat down to share her story with an intake counselor, Bethany spoke about brutalities that she endured at the hands of local police in her small town. She told us about her arrest at a public park after a police officer saw her

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[16] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.29-30 - Attachment 6.

[17] Mahallas are local government administrative units – see response to Question Three for more detail.

[18] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6.

[19] Labrys Kyrgyzstan 2010, *Discrimination and Violence Against Lesbian and Bisexual Women and Transgender people in Uzbekistan – Shadow Report submitted to the 45th CEDAW Session*, January 2010, p.5 http://www2.ohchr.org/english/bodies/cedaw/docs/LGBTO_E.pdf - Accessed 23 July 2010 - Attachment 8.

[20] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p.2-3 - Attachment 6.

> kissing her girlfriend. Bethany and her girlfriend endured multiple instances of sexual assault at the hands of the arresting police officers, who later handed [her] over for similar treatment by criminals in the jail. Bethany was fortunate to have parents who supported her and helped her escape her native country. Bethany is now in NYC seeking assistance as she files for asylum.'[21]

Due to the discrimination and harassment faced by LGBT people in Uzbekistan, they generally do not disclose their sexuality for fear of negative repercussions.[22] This tendency to conceal homosexuality and the taboo against discussing homosexuality is seen by the US Department of State as a possible explanation as to why in its 2009 Human Rights Report on Uzbekistan, it reported that there 'was no known perpetrated or condoned violence against the LGBT community' and 'no known reports of official or societal discrimination based on sexual orientation in employment, housing, statelessness, or access to education or health care' in 2009.[23]

2. Is there any evidence that individuals assisting/advocating on behalf of homosexuals in Uzbekistan are subjected to ill-treatment at the hands of authorities or by their communities?

Yes. Journalists and human rights defenders advocating on behalf of sexual minorities in Uzbekistan are subjected to ill-treatment at the hands of authorities and their communities.[24] In all reported cases, advocates who suffered ill-treatment had spoken publicly and the reports related to high-profile human rights activists. No reports were located of individuals suffering ill-treatment for speaking to authorities on behalf of a friend or acquaintance.

The 2005 IRCSM report *Sexual Minorities in Uzbekistan* notes that while journalists are becoming more vocal regarding the rights of sexual minorities, they themselves have 'become subject to an increased level of oppression, including harassment, intimidation, ill-treatment and detention as a result of their activities'. The same report notes that people who speak out publicly about the issues faced by sexual minorities and those who work to promote and defend the rights of sexual minorities 'put themselves at grave risk of human rights violations both by the state and by non-state actors'.[25] This situation is somewhat similar for all human rights activists, with the US Department of State reporting in its 2009 Human Rights Report on Uzbekistan, that:

> Police and security forces continued to harass domestic human rights activists and NGOs during the year. Security forces regularly threatened and intimidated human rights activists to prevent their activities and dissuade them from meeting with foreign diplomats, and occasionally police and other government authorities

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[21] Fesser, G 2010, 'Immigration Reform', *The Lesbian, Gay, Bisexual and Transgender Community Centre* website, http://www.gaycenter.org/advocacy/immigration-reform - Accessed 23 July 2010 – Attachment 10.

[22] Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6.

[23] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 7 July 2010 – Attachment 9.

[24] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6; World Organisation Against Torture 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010 - Attachment 5.

[25] International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December, p3 & 6 - Attachment 6.

> ordered activists to cease contact with foreigners. Unknown assailants attacked human rights activists. Authorities regularly detained or arrested human rights activists and subjected them to house arrest or false criminal charges.[26]

There are well-documented cases of Article 120 being used by the state to suppress the activities of high profile human rights activists, particularly those who advocate on behalf of sexual minorities. The most prominent example is the case of Ruslan Sharipov, a human rights activist with a high profile for his work on social minorities, who was charged on 26 May 2003 with having committed homosexual acts under Article 120 of the Criminal Code and with having sexual relations with a minor. Mr Sharipov was arrested with his colleagues Oleg Sarapulov and Azamat Mamankulov. Mr Sharipov later reported via a letter smuggled out of prison that, while in detention, he had been beaten, threatened with rape with a bottle and subjected to other forms of physical violence. Until his trial, Mr Sharipov denied all charges but on 3 August 2003 he waived his right to counsel and plead guilty to all charges. Mr Sharipov reportedly confessed to the charges under duress and he was initially sentenced to five and a half years, reduced to four years on appeal. On 23 June 2003, the District Court of Tashkent reportedly reviewed Mr Sharipov's prison sentence, commuting it to two years community service. Following his release from prison, Mr Sharipov fled Uzbekistan and was granted refugee status in the US. Of note, in the months prior to these arrests, Mr Sharipov and his colleagues had met with the United Nations Special Rapporteur on Torture as part of his research on human rights violations in Uzbekistan and it is widely suspected that the prosecution of Mr Sharipov was linked to his human rights work.[27]

The most recent cases found of the ill-treatment of people advocating on behalf of sexual minorities date from 2007. In September 2007, Mark Weil, a prominent theatre director whose plays portrayed homosexual characters was murdered by unknown assailants. Also in 2007, Oleg Sarapulov, who was arrested with Mr Sharipov in 2003, was again arrested by police under Article 120.[28] In addition to using Article 120 to suppress the activities of human rights activists, a 2006 World Organisation Against Torture report details how Uzbek authorities have used repressive strategies to silence activists. This report details

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[26] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 7 July 2010 – Attachment 9.

[27] World Organisation Against Torture 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010 - Attachment 5; Immigration and Refugee Board of Canada 2007, *UZB102392.E Uzbekistan: Treatment of homosexuals by society and by government authorities; legal recourse and protection available to homosexuals who have been subject to ill-treatment (2003-2007)*, 6 March - Attachment 1; Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, *The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee*, March http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December - Attachment 6; Human Rights Watch 2003, 'Human Rights Watch calls on government to immediately release journalists pending further investigation', *IFEX - International Freedom of Expression eXchange: The global network for free expression*, 29 May http://www.ifex.org/uzbekistan/2003/05/29/human_rights_watch_calls_on_government/ - Accessed 27 July 2010 - Attachment 11.

[28] Labrys Kyrgyzstan, Global Rights & International Human Rights Clinic 2010, The Violations of the Rights of Lesbian, Gay, Bisexual and Transgender Persons in Uzbekistan – A Shadow Report submitted to the Human Rights Committee, March http://www.globalrights.org/site/DocServer/LGBT_ICCPR_Shadow_Report_Uzbekistan.pdf?docID=11183 – Accessed 23 July 2010 - Attachment 7; 'Uzbekistan: Theatre Director's Death Fuels Despair Among Uzbek Intellectuals' 2007, EURASIANET, 10 September http://www.eurasianet.org/departments/insight/articles/eav091107.shtml -Accessed 27 July 2010 - Attachment 12.

how, in 2002, four members of the Human Rights Society of Uzbekistan were sentenced under what are described as *false charges* and that, in 2006, they remained in detention.[29]

While there is evidence of authorities and community members treating poorly people who advocate on behalf of sexual minorities, no reports could be located of the ill-treatment of individuals assisting or advocating on behalf of homosexual friends or acquaintances; this could be due to the lower-level nature of such activities. Given the extent of discrimination against LGBT people in Uzbekistan, it is plausible that individuals associated with LGBT people could experience some form of ill-treatment.

3. What is the role of militias in law enforcement/security at the local level in Uzbekistan?

Uzbekistan's *mahalla* committees and *posbon* may be referred to as the 'militia'; however, the term 'militia' can also refer to the police. Details on both institutions follow.

Mahalla

According to a 2003 Human Rights Watch Report, *From House to House*, the mahalla is 'a government administrative unit, tasked with control and surveillance of the population to assist in the implementation of current government policies.'[30] The posbon are employees of the mahalla and are responsible for monitoring citizens' behaviour.[31] They also report to the police.[32]

The mahalla's role is principally to monitor and check the development of any radical religious elements in society. Under the April 1999 *Law on Institutions of Self-Government of Citizens* (also known as the Mahalla Law), citizens must comply with the decisions of their mahalla committee. Article 12 of the Mahalla Law tasks mahalla committees to 'take measures to stop the activity of non-registered religious organisations, to ensure the observance of the rights of citizens for religious liberty, non-admission of forced spreading of religious views, to consider other issues related to the observance of legislation on freedom of conscience and religious organisations.'[33] However, the mahalla's role extend into other areas of public life, such as rehabilitating former criminals, keeping statistics on the population within its respective area of responsibility, tracking certain categories of persons and appointing individuals in the community to assist with population surveillance. The following excerpt from the *House to House* report summarises its role:

> Mahalla committees now exercise governmental supervision over many fundamental aspects of Uzbek life. They are responsible for rehabilitating those discharged from penal institutions, as well as "to render educational influence on formerly convicted persons, and those who are inclined to commit transgressions of the law." **Mahalla committees are also required to assist various state bodies in carrying out their functions, including** the parliament, all levels of hokimiat

[29] World Organisation Against Torture 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010 - Attachment 5.
[30] Human Rights Watch 2003, *From House to House*, September, p.7 http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010 - Attachment 13.
[31] UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees from the Republic of Uzbekistan*, p.17 http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 23 July 2010 – Attachment 2.
[32] Human Rights Watch 2003, *From House to House*, September, p.7 http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010 - Attachment 13.
[33] Human Rights Watch 2003, *From House to House*, September, p.9 http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010 - Attachment 13.

> [administrative government authorities that are accountable to the central government], **law enforcement bodies**, tax collection bodies, and the Ministry of Defense. They are also responsible for implementing control over trade and service enterprises. **Mahalla committees keep exhaustive statistics of dubious accuracy on their population**, including the numbers of men, women, children, unemployed, single parents, disabled people, poor people, people with convictions, and those awaiting trial. **They also track such categories as "gossips," "drug users," "scandalous families," "alcoholics," and "children who do not listen to their parents."** The mahalla committee passes these statistics to the hokimiat. As one mahalla committee deputy chair told Human Rights Watch, "[w]e know everyone in the mahalla. We see with our own eyes or neighbors tell us." **In the cities, Housing and Street Committee representatives, informally appointed for each block of flats or street of houses, provide information to the mahallas. They supply lists of people in their block of flats or street to the mahalla committee, including detailed information about residents' personal and family lives.** Mahalla committee representatives explained that they use this information to decide whom to invite to their seminars and holiday festivities, or who should receive food aid or small welfare presents. However, **they also use this information to decide about taking intervention in family conflicts or reporting matters to the police**.
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> …
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> **together with police, mahalla members also conduct passport checks to ascertain compliance with residence permit requirements**[34] and serve as witnesses to police searches.[35]

The posbon, which report to mahalla committees and local police, enhance the surveillance capabilities of the state by monitoring neighbourhood activity. According to the *House to House* report, the posbon play a key role in the collection of information and must inform police on matters such as citizens' compliance with residence permits. The number of posbon assigned to a mahalla committee is proportional to the population size and perceived need. Information published by the UNHCR in 2006 cites reports which state that 30 per cent of a mahalla could be comprised of posbon, of which two thirds could collaborate directly with security officials.[36] The following excerpts from the *House to House* report summarise the posbon's role:

> The posbon is paid by the state to work with the mahalla committee and the local police to prevent crime, maintain public order, and to strengthen the social and moral environment as defined by the government. The number of posbons assigned to each mahalla depends on the size of the population and the perceived need. For example, one Tashkent mahalla with a population of 3,400 has nine posbons; 27 another, with a population of 3,000, has only four.
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> …
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> By law, a posbon must be someone whose "spiritual thought is pure and healthy" and who is "physically and morally healthy, pure, and pious…." **The general meeting of the mahalla decides who is to be a posbon, however, they must take into account the opinion of the head of the local police. People within the mahalla area are obliged to aid the posbons in carrying out their duties. The posbon, therefore, provides a clear and legally formalized link between the law enforcement authorities and mahalla committees.** Like the mahalla committees, the posbon's role is broader than that of crime prevention, and

[34] See question four for information on the residence permit system.
[35] Human Rights Watch 2003, *From House to House*, September, p.10, 15 http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010 - Attachment 13.
[36] UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees from the Republic of Uzbekistan*, p.17 http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 23 July 2010 – Attachment 2.

> includes maintaining the "social and moral environment" of the neighborhood. The actions of the posbon, in fulfilling this role, can in some cases breach the right to privacy. Among other things, **the posbon must regularly inform the police about people who reside in the neighborhood without a residence permit, people who do not come home for long periods of time, and people not living in their houses. The posbon may interview people in relation to conflicts between citizens or criminal trials, or warn residents against undertaking illegal acts. The information collected by the posbon is recorded in a special book kept at the local police station**.[37]

Although a seemingly negligible number, the posbon together with Housing and Street Committee representatives demonstrate the extensive reach of the mahalla committees and local police into all facets of public and private life.

Police

In Uzbekistan, the term 'militia' can also refer to the police. In 2003, there were between 17,000–19,000 police in Uzbekistan (no updated policing numbers were located). According to information published by the UN High Commissioner for Refugees in 2006, 'the police force of the Ministry of Internal Affairs, whose function is allegedly to monitor and control the activities of ordinary citizens'[38], is also referred to as the militia. The report goes on to explain the structure of the police system and its role in law enforcement:

> The system is comprised both of regional and central enforcement units and is usually called "милиция" ("militia"). Reportedly, there are two units within MIA [Ministry of Internal Affairs] that are used purely as task-force: separate battalion "Bars" and separate MIA task-force squad no.7. (they played active role in Andijan events…). Particularly important and active structural unit of the police is the Office for Terrorism Detection of MIA (Управление по борьбе с терроризмом МВД). The MIA also manages a terrorist prison that has been highly criticized for human rights abuses.[39]

Information published by the US Library of Congress in 2007 also provides an overview of conventional police operations and characterises the police as corrupt and violent. The information notes that mahalla committees cooperate with the police at the local level in areas of crime prevention and deterrence of anti-government activity:

> Police: …. Conventional police operations are the responsibility of the Ministry of Internal Affairs. Each governmental jurisdiction has a police force; the forces of larger jurisdictions are subdivided by function. The police forces reportedly are corrupt (particularly the tax and traffic police), and the level of public trust in them is very low. According to human rights organizations, both NSS [National Security Service] and regular police use arbitrary arrest, intimidation, and violent tactics. At the community level, civilian police organizations of the mahallas aid the local police in crime prevention and deterrence of antigovernment activity.[40]

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[37] Human Rights Watch 2003, *From House to House*, September, p.7, 11 http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010 - Attachment 13.
[38] UN High Commissioner for Refugees 2006, International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan, March, http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 – Attachment 2
[39] UN High Commissioner for Refugees 2006, International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan, March, http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 – Attachment 2.
[40] US Library of Congress 2007, Federal Research Division, *Country Profile – Uzbekistan* http://lcweb2.loc.gov/frd/cs/profiles/Uzbekistan.pdf - Attachment 15.

4. Is there any evidence to indicate that the intimidation and assault of lesbians and their advocates by local militias and the local community would be replicated elsewhere within Uzbekistan?

Yes. Lesbians and their supporters may not be able to escape maltreatment from the 'militia' through internal relocation (if understood as either the mahalla or police). This is because people cannot lawfully relocate without notifying the Ministry of Internal Affairs[41] – the same government body responsible for police operations.[42] The Ministry issues residence permits to citizens and, according to the Uzbek–German Forum for Human Rights[43], coordinates the permit system with other agencies including the police. Due to the pervasive nature of state authority in Uzbekistan, it would be reasonable to expect that the Ministry of Internal Affairs – when processing an individual's relocation – facilitates the transfer of that individual's profile, including any police records, to local authorities in the new place of residence. In addition, it is conceivable that the posbon – by virtue of its reporting relationship with local police and mahalla committees – could learn of an individual's past.

Moreover, it is also possible that corrupt officials could obstruct people's relocation if they did not pay bribes. Sources indicate the application process takes 'a lot of time, effort and financial resources'.[44] Citizens frequently pay bribes to expedite the process, which involves obtaining permission to withdrawal from the current address, applying for a new residence permit and registering at the new address. A residence permit is required to lawfully access employment, housing, medical care and education, and as a result is integral to everyday life. Local authorities regularly conduct checks of citizens' permits and those without permits reportedly pay bribes to be left alone.[45]

The residence permit is commonly known as *propiska* and is a 'seal in the passport of a citizen identifying his/her permanent place of residence.'[46]According to information published by the Uzbek–German Forum for Human Rights, a 'total system' is in place to track and monitor persons without a residence permit and all departments of the Ministry of Internal Affairs are involved:

> Departments of Internal Affairs directly coordinate the passport system in conjunction with other agencies including criminal affairs, investigations, traffic police and others, in order to identify individuals without passports and permits. Employees of passport bureaus, in turn, inform the relevant agencies about

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[41] Uzbek–German Forum 2010, *On the laws and practices of the Republic of Uzbekistan regarding the rights of citizens to free movement and choice of residence*, p.5 http://www.uzbekgermanforum.org/content/freedom-movement-migration – Accessed 10 July 2010 – Attachment 14.

[42] US Library of Congress 2007, Federal Research Division, *Country Profile – Uzbekistan* http://lcweb2.loc.gov/frd/cs/profiles/Uzbekistan.pdf - Accessed 21 July 2010 - Attachment 15.

[43] The Uzbek–German Forum for Human Rights (UGF) is a German-based NGO aimed at improving the human rights situation in Uzbekistan and strengthening and promoting civil society. UGF was established and registered in Berlin in July 2008 as a joint venture of Uzbeks and Germans with the purpose of furthering Uzbekistan Human Rights advocacy through the engagement of public opinion and European institutions; see http://www.uzbekgermanforum.org/content/uzbek-german-forum-human-rights.

[44]Bureau of Human Rights and rule of Law Uzbekistan and Centre for Civil and Political Rights, 2009, *Uzbekistan NGO Report on the implementation of the ICCPR*, April http://www2.ohchr.org/english/bodies/hrc/docs/ngos/BHRRL_Uzbekistan96.pdf - Accessed 21 July 2010 – Attachment 16.

[45] Uzbek–German Forum 2010, *On the laws and practices of the Republic of Uzbekistan regarding the rights of citizens to free movement and choice of residence*, pp.4–9 http://www.uzbekgermanforum.org/content/freedom-movement-migration – Accessed 10 July 2010 – Attachment 14.

[46] Bureau of Human Rights and rule of Law Uzbekistan and Centre for Civil and Political Rights, 2009, *Uzbekistan NGO Report on the implementation of the ICCPR*, April http://www2.ohchr.org/english/bodies/hrc/docs/ngos/BHRRL_Uzbekistan96.pdf - Accessed 21 July 2010 – Attachment 16.

individuals committing offenses, established through passport checks. Thus, a total system is in place to track and monitor persons without a residence permit.[47]

In 2010, the US Department of State also published information indicating that citizens require permission from local authorities to move to a new city.[48] Information published by the US Library of Congress also states that 'the compulsory residence registration system (*propiska*) hampers movement of citizens within the country.'[49]

5. Who issues exit permits in Uzbekistan and is there evidence to suggest that local militias can influence the decisions of authorities who issue exit permits?

Issuing of exit permits

The Ministry of Internal Affairs issues exit permits in Uzbekistan, and for those who travel abroad to work under a private contract, the Ministry of Labour and Social Protection is also involved. Citizens intending to travel abroad must apply to the office of the Ministry of Internal Affairs in their place of residence[50], presenting a completed application form and their Uzbek passport. The application is processed within 15 days and, if successful, the applicant receives a stamp in their passport that authorises travel abroad. The stamp is valid for two years, during which time the relevant passport-holder can make multiple trips abroad without having to apply to the Ministry for authorisation. Children aged under 18 years must submit their application through their legal representative.[51]

The Ministry of Labour and Social Protection assists citizens arrange the formalities of working abroad. Regional offices in major cities, including Tashkent, provides citizens with information about overseas employment opportunities and the conditions of employment, selects suitably qualified candidates and assists citizens with exit formalities such as obtaining visas and other relevant documents.[52]

By law, an exit visa may be denied for the following reasons; however, sources indicate that unlawful denials are not uncommon, particularly for individuals whom authorities perceive to be disloyal:[53]

(a) He is in possession of information constituting a State secret or has contractual obligations preventing his travel abroad – until the termination of such obligations;

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[47] Uzbek–German Forum 2010, *On the laws and practices of the Republic of Uzbekistan regarding the rights of citizens to free movement and choice of residence*, p.8 http://www.uzbekgermanforum.org/content/freedom-movement-migration – Accessed 10 July 2010 – Attachment 14 .

[48] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March, Section D http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 21 July 2010 – Attachment 9.

[49] US Library of Congress 2007, Federal Research Division, *Country Profile – Uzbekistan*, p.19 http://lcweb2.loc.gov/frd/cs/profiles/Uzbekistan.pdf - Accessed 21 July 2010 - Attachment 15.

[50] Various names of these local offices have been found, including: The Department of Exit, Entry and Citizenship; the Department of Entry and Exit at the Interior Ministry's Department of Entry, Exit and Legalisation of Citizenship – see http://www.forum18.org/Archive.php?article_id=1264; and, the local Office of Exit, Entry, and Citizenship (OEEC) – see http://www.tashkent.org/uzland/tourism.html

[51] UN Human Rights Committee 2008, *UN Human Rights Committee: Third Periodic Report, Uzbekistan*, 8 June, CCPR/C/UZB/3, pp.109-113 http://www.unhcr.org/refworld/docid/4bd945ca2.html - Accessed 10 July 2010 – Attachment 17.

[52] UN Human Rights Committee 2008, *UN Human Rights Committee: Third Periodic Report, Uzbekistan*, 8 June, CCPR/C/UZB/3, pp.109-113 http://www.unhcr.org/refworld/docid/4bd945ca2.html - Accessed 10 July 2010 –Attachment 17.

[53] Uzbek–German Forum 2010, *On the laws and practices of the Republic of Uzbekistan regarding the rights of citizens to free movement and choice of residence*, p.10 http://www.uzbekgermanforum.org/content/freedom-movement-migration – Accessed 10 July 2010 –Attachment 14.

(b) Criminal proceedings have been instituted against him – until the conclusion of such proceedings;

(c) He has been found in a judicial sentence to be a dangerous recidivist or is under administrative supervision by the police – until his conviction is expunged or the supervision is terminated;

(d) He declines to fulfil obligations imposed by a court – until the period of such obligations expires;

(e) He has knowingly submitted false information about himself;

(f) A civil action has been instituted against him – until the conclusion of the proceedings in the case;

(g) He is registered in a call-up district and is liable to be called up for active military service – until the expiry of the period of liability for service or his release from such liability in accordance with the law. [54]

Sources also indicate that the National Security Service (NSS) plays a key role in the visa decision-making process and has staffers working within the Ministry to process applications. Information from the Uzbek–German Forum for Human Rights describes the NSS' role:

> Permission for leaving is issued by the Department of Exit, Entry and Citizenship at the Internal Affairs [Ministry of Internal Affairs] district offices. But these departments do not make decisions themselves; they are merely a screen for security authorities. **Upon receipt of an application, they slip these statements to the city or regional departments of the National Security Service (NSS), where the decisions whether to accept or deny an application are actually made. … Since 2005, the NSS has increased its control over the Department of Exit, Entry and Citizenship. Since then, NSS delegated its staff to the Department of Exit, Entry and Citizenship to consider applications and make decisions by checking them with the 'blacklist' of dissidents** … denials have become routine. Thus it has apparently been decided to reduce the communications costs – the representatives of the NSS administer routine refusals on-site and monitor the Department of Exit, Entry and Citizenship suspected of taking bribes for granting exit visas without NSS permission.[55]

In June 2010, Freedom House also reported that the Uzbek Government places restrictions on foreign travel, including exit visas, which are often issued selectively.[56] In its 2009 Human Rights Report on Uzbekistan, the US Department of State noted that citizens often bribe officials to obtain exit visas.[57]

Ability of local militias to influence issuing of exit visas

If the 'militia' is a reference to the mahalla, it is plausible that 'militias' could influence the issuing of exit visas, although no explicit reference could be located in the sources consulted. According to information published in 2006 by the International League for Human Rights, 'applications [for travelling abroad] are reviewed against the data bases of various security and law enforcement agencies.'[58] By virtue of its reporting function to the

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[54] UN Human Rights Committee 2008, *UN Human Rights Committee: Third Periodic Report, Uzbekistan*, 8 June, CCPR/C/UZB/3, pp.109-113 http://www.unhcr.org/refworld/docid/4bd945ca2.html - Accessed 10 July 2010 – Attachment 17.

[56] Freedom House 2010, *The Worst of the Worst 2010 - Uzbekistan*, 3 June http://www.unhcr.org/refworld/docid/4c0e0b0311.html - accessed 12 July 2010 – Attachment 18.

[57] US Department of State 2010, *Country Reports on Human Rights Practices 2009 – Uzbekistan*, 11 March http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm - Accessed 7 July 2010 – Attachment 9.

[58] International League for Human Rights, 2006, *Alternative report on the compliance of the republic of Uzbekistan with the United Nations Convention on Elimination of All Forms of Racial Discrimination*, March,

police and ability to contribute to information on the police record, it is conceivable that the posbon may have the ability to indirectly influence the visa decision-making process. Given that exit visa applications are reviewed against law enforcement databases, it is possible that police could influence the decision to grant or deny a visa. While these two options may be plausible, an individual would need to be formally registered in a database for this to occur.

6. Are Uzbek official documents also issued in Russian? Is document fraud widespread?

Uzbekistan gained independence from the Soviet Union in 1991. During the Soviet era, Russian was the official language of Uzbekistan[59]; however, in 1989 the Uzbek Government passed the *Law of the Republic of Uzbekistan "On Official Language"*, which established Uzbek as the official language of Uzbekistan.[60] While Uzbek is the official state language, the legislation also provides for the translation of official documents into other languages, specifically, Article 8 states:

> Legislative documents of the Republic of Uzbekistan and other documents of state authorities shall be adopted and published on the official language. Translations of such documents may also be published on other languages.
>
> Documents of local authorities shall be adopted and declared on the official language. In the territories of dense residence of representatives of some ethnic groups the documents of local authorities shall be adopted and declared on the official language of the republic and language of such group.

Despite the legislative requirement that official documents are published in Uzbek, the extent to which Uzbek has replaced Russian in official documents appears somewhat mixed. For example, in 2009, the US Department of State noted that while Uzbek is the official state language 'Russian is the de facto language for interethnic communication, including much day-to-day government and business use.'[61] Writing in 2006, the UNHCR made a similar statement, drawing on a 2005 US Department of State publication, noting that '[a]lthough Uzbek is the official state language, Russian is the predominant language for business, government and inter-ethnic communication.'[62] No information could be found on the prevalence of document fraud in Uzbekistan.

Attachments

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p.20 http://www.ilhr.org/ilhr/regional/centasia/reports/On%20the%20Compliance%20of%20the%20Republic%20of%20Uzbekistan%20with%20UN%20Convention%20on%20Elimination%20of%20All%20Forms%20or%20Racial%20Discrimination.pdf - Accessed 21 July 2010 – Attachment 19.

[59] Kozlova, M 2008, 'Uzbekistan: Do You Speak Russian?', *TOL Chalkboard*, 21 May, http://chalkboard.tol.org/uzbekistan-do-you-speak-russian - Accessed 26 July 2010 - Attachment 20.

[60] *Law of the Republic of Uzbekistan "On Official Language" (last amended 1995)* [Uzbekistan], 3561-XI, 21 October 1989, http://www.unhcr.org/refworld/docid/3ae6b4d328.html - Accessed 27 July 2010 - Attachment 21.

[61] US Department of State 2009, *Background Note: Uzbekistan*, 16 October http://www.state.gov/r/pa/ei/bgn/2924.htm - Accessed 27 July 2010 - Attachment 22.

[62] UN High Commissioner for Refugees 2006, *International Protection Considerations Regarding Asylum-Seekers and Refugees From the Republic of Uzbekistan*, March http://www.unhcr.no/Pdf/Position_countryinfo_2007/uzbeks.pdf - Accessed 22 July 2010 - Attachment 2.

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5. World Organisation Against Torture (OMCT) 2006, *Human Rights Violations in Uzbekistan. An Alternative Report to the United Nations Human Rights Committee*, 30 January http://www.omct.org/pdf/procedures/2005/s_violence_uzbekistan_2_2005_eng.pdf - Accessed 22 July 2010.

6. International Research Centre on Social Minorities 2005, *Sexual Minorities in Uzbekistan*, December.

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9. US Department of State 2010, *2009 Country Reports on Human Rights Practices: Uzbekistan*, March.

10. Fesser, G 2010, 'Immigration Reform', *The Lesbian, Gay, Bisexual and Transgender Community Centre* website, http://www.gaycenter.org/advocacy/immigration-reform - Accessed 23 July 2010.

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12. 'Uzbekistan: Theatre Director's Death Fuels Despair Among Uzbek Intellectuals' 2007, *EURASIANET*, 10 September http://www.eurasianet.org/departments/insight/articles/eav091107.shtml - Accessed 27 July 2010.

13. Human Rights Watch 2003, *From House to House*, September http://www.hrw.org/sites/default/files/reports/uzbekistan0903full.pdf - Accessed 23 July 2010.

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15. US Library of Congress 2007, Federal Research Division, *Country Profile – Uzbekistan* http://lcweb2.loc.gov/frd/cs/profiles/Uzbekistan.pdf.

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18. Freedom House 2010, *The Worst of the Worst 2010 - Uzbekistan*, 3 June http://www.unhcr.org/refworld/docid/4c0e0b0311.html - Accessed 12 July 2010.

19. International League for Human Rights, 2006, *Alternative report on the compliance of the republic of Uzbekistan with the United Nations Convention on Elimination of All Forms of Racial Discrimination*, March http://www.ilhr.org/ilhr/regional/centasia/reports/On%20the%20Compliance%20of%20the%20Republic%20of%20Uzbekistan%20with%20UN%20Convention%20on%20Elimination%20of%20All%20Forms%20or%20Racial%20Discrimination.pdf - Accessed 21 July 2010.

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