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“They Said We Deserved This”

Police Violence Against Gay and Bisexual Men in Kyrgyzstan



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Printed in the United States of America

ISBN: 978-1-62313-0916

Cover design by Rafael Jimenez

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“They Said We Deserved This” Police Violence Against Gay and Bisexual Men in Kyrgyzstan

- Summary 1**
- Recommendations..... 5**
 - To the Government of Kyrgyzstan5
 - To the Ministry of Internal Affairs 6
 - To the General Prosecutor’s Office7
 - To the Ministry of Justice.....7
 - To the Office of the Ombudsman7
 - To the National Center for Prevention of Torture 8
 - To LGBT Rights Organizations in Kyrgyzstan 8
 - To Human Rights Organizations in Kyrgyzstan Working on Police Reform, Torture, and Related Issues..... 8
 - To Domestic and International Nongovernmental Organizations (NGOs) and International Organizations Working on HIV Prevention 8
 - To the Organization for Security and Co-operation in Europe 9
 - To the Governments of the United States, the European Union, and Individual EU Member States 9
 - To the United Nations Office of the High Commissioner for Human Rights (OHCHR)..... 10
- Glossary..... 11**
- Methodology..... 12**
- I. Background.....14**
 - Climate of Homophobia 14
 - Violence Against LGBT People 14
 - Limiting Free Expression on LGBT Issues..... 15
 - Police Abuse and Corruption in Kyrgyzstan..... 16
 - International and NGO Engagement in Police Reform..... 17
 - LGBT Rights Activism..... 20

| | |
|---|-----------|
| II. Police Violence, Threats, and Extortion | 21 |
| Physical Abuse, Ill-Treatment and Torture | 23 |
| Rape, Sexual Violence, and Threats of Rape | 36 |
| Rape and Attempted Rape | 38 |
| Threats of Rape | 43 |
| Targeting of Gay Men for Extortion Without Violence..... | 45 |
| Targeting Gay Men for Extortion in Parks and Other Public Spaces..... | 45 |
| Targeting Gay Men at Hotels and Private Apartments | 47 |
| Threat of False Criminal Charges for Extortion | 48 |
| III. Government Responses | 50 |
| Inadequate Police Complaint Mechanisms..... | 51 |
| Lack of Investigations | 55 |
| Steps to Address Police Torture and Ill-Treatment..... | 57 |
| International Legal Standards | 59 |
| Acknowledgements | 64 |

Summary

The police told me that Kyrgyzstan is not a place for me. They said that they know many men like me. They said, “You are not the first, you are not the last [gay man to be detained].” ... They told me that I should stop being gay.
—Mikhail Kudryashov, 24, who was severely beaten and threatened with rape by police in Kyrgyzstan in 2010

In May 2012, 32-year-old Fathullo F. (not his real name) received a phone call from a friend who said he had arranged a date for him with another man near a local hotel. Police officers grabbed him soon after he arrived at the designated meeting location, placed handcuffs on him, and insulted him. At the police station the officers hit him in the face and in the ear to force him to write a confession about seeking to meet another man, as well as to provide them with contact information for his employer and his family. The officers threatened to initiate a criminal “sodomy” case against him—even though consensual sex between men is not a crime in Kyrgyzstan—unless he agreed to give them money and contact information for other gay men from whom they could also extort money. He described how police officers treated him in detention:

The officers told me that people like me do not deserve to be on face of the earth. I asked them to let me sit down because I was tired. They said that I didn’t deserve to use their chair and spat on me. They said that I didn’t deserve to live and threatened to ruin me if I didn’t give them 10,000 soms [US\$214].

The case of Fathullo F. is not unique. Gay and bisexual men in Kyrgyzstan are subject to a range of abuses by police, including physical, sexual, and psychological violence, as well as extortion and arbitrary detention. Police who commit these abuses are not held to account, creating a climate of impunity that encourages further abuse. Victims are reluctant to report police abuses to the authorities, fearing retaliation or the disclosure of their sexual orientation to family members and/or employers by the police. Very few cases of police torture and violence against gay men are investigated in Kyrgyzstan, and

Human Rights Watch is not aware of a single case in which a police officer has been held accountable for the arbitrary detention, torture, or ill-treatment of a gay or bisexual man.

Violence, blackmail, and extortion by police, and a lack of accountability for these crimes, are all too common in Kyrgyzstan, but those who belong to minority groups are particularly vulnerable. Gay and bisexual men are easy targets for abuse due to deep social conservatism.

Pervasive homophobia in society and widespread police corruption contribute to these abuses. In general, men in Kyrgyzstan are expected to conform to stereotypical male appearances, marry women, and have children. Men who do not fit these stereotypes are perceived as failing to fulfill familial and social duties and are often pressured to conform. Many people perceive homosexuality as a “tragedy” and a “disease.” As a result, many gay and bisexual men interviewed by Human Rights Watch said that they fear disclosing their sexual orientation to their families and employers and try to conceal it from others at any cost.

The 40 gay and bisexual men Human Rights Watch interviewed for this report all said that police are aware of their fear of disclosure of their sexual orientation and described how police officers exploit this vulnerability to target men they suspect are gay or bisexual. Most, including two who were 17 years old at the time of abuse, reported having experienced some form of physical abuse, threats, extortion, or all of these abuses during one or multiple encounters with the police.

Many of the men interviewed by Human Right Watch for this report also reported ill-treatment in police detention, including being punched, kicked, or beaten with gun butts or other objects. Several also reported sexual violence by police officers, including rape, group rape, attempts to insert a stick, hammer, or electric shock device inside the victim’s anus, unwanted touching during a search, or being forced to undress in front of police. In some cases, the ill-treatment the men experienced at the hands of the police rose to the level of torture.

Several men, including one who was 17 years old at the time of abuse, told Human Rights Watch that police threatened to rape them, in some cases with a coat hanger or a bottle. Police also often asked humiliating personal questions, such as whether they play an active or a passive role in sex.

Most of the gay and bisexual men interviewed by Human Rights Watch said that the police had threatened to disclose their sexual orientation to family members, employers, university administration (in the case of students), and others. In Kyrgyzstan, the disclosure of a person's sexual orientation can have serious consequences, including violence, loss of employment, and long-term social and family ostracism.

Many of those interviewed by Human Rights Watch reported that police had compelled them to pay money, ranging from \$12 to \$1,000, in order to avoid further physical violence, being detained, or the police disclosing their sexual orientation to family members or others.

Police in Kyrgyzstan have no legal right to detain gay and bisexual people solely on the basis of their sexual orientation. In 1998, Kyrgyzstan ended Soviet-era criminalization of consensual sex between men with the adoption of a new criminal code. Despite this, Human Rights Watch found that police arbitrarily stop gay and bisexual men in public places or take them into custody solely because of their actual or perceived sexual orientation. Police identify gay and bisexual men through dating websites, outside of gay clubs, and in parks where gay and bisexual men meet, among other locations.

Kyrgyzstan's laws prohibit torture, ill-treatment, arbitrary detention, and extortion by police, as do Kyrgyzstan's commitments under international law. Despite these legal protections, this report finds that current systems of addressing police abuse are not sufficient for protecting gay and bisexual men from violence and extortion. Of those men interviewed by Human Rights Watch for this report, only two filed official complaints about the abuse they had suffered. One victim never received a response to his complaint. In another case, the prosecutor's office conducted an inquiry that ignored medical evidence of injuries against the victim and declined to open a criminal investigation.

Many of the gay and bisexual men interviewed for this report, including human rights defenders, told Human Rights Watch that they feel unable to file complaints and access existing systems of redress, and that they lack confidence in the authorities' willingness to pursue their complaints. They have legitimate fears of retaliation by those who abused them in the first place or by other law enforcement officials. They also fear that law enforcement officials will fail to respect their privacy and confidentiality or will disclose their sexual orientation to the public, family members, or others.

In interviews with Human Rights Watch, Ministry of Interior officials openly stated that they are unable to protect victims, including gay and bisexual men, who file complaints from possible repercussions by police or law enforcement officers.

The cases of police abuse against gay and bisexual men documented by Human Rights Watch indicate the need for enhanced and targeted efforts to prevent and punish torture and ill-treatment, including when committed against gay and bisexual men. The government of Kyrgyzstan should take steps to encourage reporting of complaints of police violence and extortion against gay and bisexual men, including by ensuring that the recently established National Center for Prevention of Torture and the Office of the Ombudsman for Human Rights have the mandate and means to receive and adequately investigate such complaints.

The authorities should ensure that all allegations are promptly investigated in a manner capable of leading to prosecutions of perpetrators. The authorities should immediately establish victim and witness protection programs to ensure that gay and bisexual men and others may safely file complaints without fear of retaliation.

Recommendations

To the Government of Kyrgyzstan

- Publicly acknowledge the scope and gravity of the problem of police violence and extortion against gay and bisexual people in Kyrgyzstan, and commit to taking all necessary steps to end these abuses.
- Continue to issue and widely publicize high-level directives stating that acts of torture, other forms of ill-treatment, and extortion by law enforcement officials will not be tolerated, that reports of police abuse will be promptly and thoroughly investigated, and that those found responsible will be held to account. The directives should highlight the particular problem of police abuse targeting minorities and other vulnerable groups, including gay and bisexual people.
- Direct the general prosecutor's office to fulfill its responsibility under Kyrgyz law to investigate in a thorough, impartial, and timely manner all allegations of torture and other abuse involving law enforcement officials, regardless of rank and whether the victim has filed a formal complaint.
- Ensure that victims of torture or ill-treatment can receive appropriate compensation and rehabilitation from the government in accordance with Kyrgyz law.
- Engage with lesbian, gay, bisexual, and transgender (LGBT) rights groups in Kyrgyzstan to develop law enforcement and prosecutor's office training programs on human rights, LGBT rights, and nondiscrimination; rights awareness-raising campaigns among gay and bisexual men and others; and other measures to prevent and remedy police abuse against gay and bisexual people.
- Ensure that the National Center for Prevention of Torture and other torture prevention measures include an effective mechanism in place for receiving complaints from victims of abuse who are not in detention, including LGBT people and members of other vulnerable groups who require their personal information to be kept confidential.
- Ensure that the staff of the National Center for Prevention of Torture and other torture prevention institutions engage with LGBT rights groups and receive training about LGBT rights and nondiscrimination.

- Examine, in consultation with the ombudsman for human rights, civil society, and the Office for Security and Co-operation in Europe (OSCE) whether the Office of the Ombudsman could, if appropriately mandated and resourced, take on the role of an independent national police complaints body.

To the Ministry of Internal Affairs

- State publicly that the Ministry of Internal Affairs deplores and will no longer tolerate torture, ill-treatment, and extortion by police and that it will punish all those responsible. Highlight the particular problem of police abuse of gay and bisexual people.
- Ensure that when allegations of torture, ill-treatment, or other misconduct are made against a police officer, the officer is suspended pending an investigation. In addition, the unit to which the officer belongs should be immediately excluded from any role in conducting the police investigation of the incident beyond that of providing witness statements. Authority should be immediately handed over to the prosecutor.
- Discipline or prosecute superior officers who know, or who should have known, about such acts and failed to act to prevent and punish them.
- Inform victims about the results of internal investigations and disciplinary measures and publish statistics on the outcomes of investigations and prosecutions to show that the ministry will not tolerate abuse.
- Ensure that all members of law enforcement agencies are identifiable through name and rank tags on their uniforms.
- Ensure that all law enforcement officers comply with and implement laws on policing, including with regard to length of detention, registering detainees, and other procedures and protections for detainees.
- Combat the practice of failing to register detentions by ensuring that surveillance devices are installed and hold officers to account for failing to properly complete arrest protocols, as recommended in the 2012 report on Kyrgyzstan by the United Nations special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

To the General Prosecutor's Office

- Investigate promptly and impartially all allegations of torture, ill-treatment, extortion, and other abuse by police and other law enforcement officials, and prosecute to the fullest extent of the law any official found responsible for ordering, carrying out, or acquiescing to torture or ill-treatment.
- Facilitate reporting of abuse by ensuring that victims who file complaints, including gay and bisexual men, are guaranteed confidentiality and respect for their right to privacy.
- Ensure that every investigation is conducted promptly and impartially and that prosecutors investigate all those responsible, including superiors.
- Ensure prompt and independent forensic medical examinations of detainees who allege that they have been subjected to torture and other abuse.
- Establish a separate investigative body directly under the prosecutor general that would investigate allegations of crimes committed by police and other law enforcement officers, including torture, ill-treatment, unacknowledged or arbitrary detention, extortion, and other crimes.
- Appoint and train liaison officers within each local prosecutor's office who could serve as point persons for LGBT people and other vulnerable groups who suffer abuse at the hands of the police.

To the Ministry of Justice

- Review compliance of national legislation with provisions of the International Covenant on Civil and Political Rights (ICCPR) on nondiscrimination, in particular with regard to women and persons of minority ethnicity, sexual orientation, or gender identity, in line with recommendations made under the UN Human Rights Council's Universal Periodic Review.

To the Office of the Ombudsman

- Receive and investigate human rights complaints by LGBT people against the police on a confidential basis.

To the National Center for Prevention of Torture

- Focus torture and ill-treatment monitoring efforts on vulnerable groups including LGBT people and investigate on a confidential basis all complaints of ill-treatment and torture, including against LGBT people, irrespective of whether they are in detention or at liberty.

To LGBT Rights Organizations in Kyrgyzstan

- Urgently develop programs addressing police abuse of gay and bisexual men, including by providing rights-awareness trainings and materials and services to victims of police abuse, including legal and psychological support.
- Engage with other human rights groups, relevant government institutions, and international organizations in these types of programs.
- Raise awareness among LGBT communities about police abuse, individuals' rights under Kyrgyz and international law, and mechanisms for reporting police abuse.

To Human Rights Organizations in Kyrgyzstan Working on Police Reform, Torture, and Related Issues

- Engage with and support LGBT organizations in documenting cases of extortion, harassment, arrest, arbitrary detention, ill-treatment, torture, and sexual violence against gay and bisexual men by police, and provide legal and other services to gay and bisexual men who are victims of police abuse.
- Include the problem of police torture, ill-treatment, and extortion of gay and bisexual men on the agenda of pressing issues to discuss with Kyrgyz government officials, international organizations, and partner organizations.

To Domestic and International Nongovernmental Organizations (NGOs) and International Organizations Working on HIV Prevention

- Include police abuse against vulnerable groups, including gay and bisexual men, among priority issues for programming and advocacy.

- Actively involve LGBT rights organizations in human rights and LGBT rights trainings and advocacy efforts with law enforcement officials, judges, and prosecutors.

To the Organization for Security and Co-operation in Europe

- In consultation with LGBT rights groups, include LGBT rights as an integral part of police reform and training programs supported by the OSCE in Kyrgyzstan.
- Continue to prioritize prevention of police abuse in police reform programming in Kyrgyzstan, and ensure that OSCE-funded programs include clear timelines and benchmarks for eliminating police abuse.
- Communicate to senior officials within the Ministry of Internal Affairs and other government officials the need for public declarations of a policy of zero tolerance for police abuse, including against gay and bisexual men.

To the Governments of the United States, the European Union, and Individual EU Member States

- Publicly condemn police acts of violence against gay and bisexual men and raise this issue in routine and high-level meetings with relevant government counterparts.
- Make available financial and other support to LGBT rights and other human rights organizations in providing legal, psychological, and other services to gay and bisexual men who have been victims of police abuse.
- In line with the June 2013 EU guidelines to promote and protect the enjoyment of all human rights by lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, contribute to combating any form of anti-LGBTI violence by seeking assistance and redress for victims of such violence and by supporting civil society and governmental initiatives to monitor cases of violence, and by educating law enforcement personnel.
- Include issues of nondiscrimination, including on the grounds of sexual orientation and gender identity, in legal trainings conducted as part of the EU Central Asia Rule of Law Initiative.

To the United Nations Office of the High Commissioner for Human Rights (OHCHR)

- Include LGBT rights among the priority issues to be addressed by the Regional Office for Central Asia, in line with the OHCHR “Free and Equal” campaign launched in July 2013, which “aims to raise awareness of homophobic and transphobic violence and discrimination, and encourage greater respect for the rights of LGBT people.”
- Engage with the government of Kyrgyzstan to develop amendments to ensure all relevant national legislation concerning torture and nondiscrimination is consistent with international human rights standards, including on LGBT rights, as identified by UN treaty monitoring bodies and other UN mechanisms.
- Publicly show support for and meet regularly with LGBT rights groups and take into consideration LGBT rights groups’ recommendations concerning government policies and other issues. Involve LGBT rights groups in OHCHR-facilitated civil society coalitions.

Glossary

Bisexual: A person who is attracted to people of both sexes.

Gay: Used here to refer to the sexual orientation of a man whose primary sexual and romantic attraction is towards other men.

Gender: Social and cultural codes (as opposed to biological sex) used to distinguish between what a society considers “masculine” or “feminine” conduct.

Gender Identity: Person’s internal, deeply felt sense of being female or male, both, or something other than female and male. A person’s gender identity does not necessarily correspond to the biological sex assigned at birth.

Heterosexual: A person attracted primarily to people of the opposite sex.

Homophobia: Fear and contempt of homosexuals, usually based on negative stereotypes of homosexuality.

Homosexual: Sexual orientation of a person whose primary sexual and romantic attractions are toward people of the same sex.

LGBT: Lesbian, gay, bisexual, and transgender; an inclusive term for groups and identities sometimes also grouped as “sexual and gender minorities.”

Lesbian: Sexual orientation of a woman whose primary sexual and romantic attraction is toward other women.

Sexual Orientation: The way in which a person’s sexual and romantic desires are directed. The term describes whether a person is attracted primarily to people of the same or other sex, or to both.

Transgender: An adjective used to describe the gender identity of people whose birth gender (the gender they were declared to have upon birth) does not conform to their lived and/or perceived gender (the gender that they are most comfortable with expressing or would express, if given a choice). A transgender person usually adopts or would prefer to adopt a gender expression in consonance with their preferred gender but may or may not desire to permanently alter their bodily characteristics in order to conform to their preferred gender.

Methodology

The report is based on in-depth interviews with 40 gay and bisexual men in four different cities in Kyrgyzstan.

Human Rights Watch researchers conducted the interviews during research missions to Bishkek, Kara-Balta, Osh, and Jalalabad in July and August 2012, and to Bishkek and Osh in October and November 2012. Human Rights Watch also interviewed three gay men from Kyrgyzstan living in Moscow, Russia in August and October 2012. Human Rights Watch conducted additional interviews with a group of gay activists from Kyrgyzstan in New York in February 2013. One of these men was abused by police shortly after he returned from his trip to the United States. A Human Rights Watch researcher interviewed this man again after his return home, along with one other gay man in February 2013.

At least 12 gay men who told LGBT organizations that they experienced police abuse declined to be interviewed by Human Rights Watch out of fear of retaliation.

Almost all of the interviews were conducted in Russian by two Human Rights Watch researchers who speak fluent Russian, and in a few instances in Uzbek with the use of an interpreter who translated from Uzbek to Russian. Human Rights Watch provided no incentive for interviewees to participate.

Human Rights Watch worked closely with four Kyrgyz LGBT organizations based in Bishkek, including: Labrys, Kyrgyz Indigo, Pathfinder, and the Mozaika Initiative Group at the Anti-AIDS Association. Human Rights Watch also worked with Gender Vector, a gay and bisexual rights organization based in Karabalta, and two HIV prevention organizations based in Osh. All these organizations helped to introduce Human Rights Watch to gay and bisexual men who experienced various types of police abuse.

The researchers interviewed eight representatives of LGBT organizations and other human rights NGOs in Kyrgyzstan. Human Rights Watch researchers also met with the former human rights ombudsman of Kyrgyzstan and officials from the Ministry of Internal Affairs. The report also draws from relevant court materials, medical reports and local media articles.

Most interviewees' names were changed for security reasons. Pseudonyms are represented by a first name and initial throughout the report. In some cases, Human Rights Watch has withheld additional identifying information to protect interviewees' privacy and safety. First and last names were used when requested, primarily in the case of LGBT rights activists who were willing to disclose their names and affiliations.

I. Background

Climate of Homophobia

Kyrgyzstan decriminalized consensual sex between men in 1998, with the adoption of a new criminal code.¹ Despite decriminalization, there remains a strong social taboo against homosexuality. Before Kyrgyzstan became independent in 1991, only 0.1 percent of men were not married by the age of 50.² Current data on this trend is not available, but cultural pressure to enter a heterosexual marriage remains strong. Social expectations, particularly in rural areas, also promote masculine gender expression, which includes short hair, wearing dark colors, and demonstrating physical strength.³ For those who do not conform to these expectations, including many gay and bisexual men, life can be difficult. It is against strong social conformity that a climate of homophobia in Kyrgyzstan emerges.

Violence Against LGBT People

The scope of this report is limited to documenting violence and extortion against gay and bisexual men by police, but LGBT people and activists may also face violence, discrimination, and harassment by members of their families and the public.

For example, from January through August 2013, the Bishkek-based LGBT organizations Labrys and Kyrgyz Indigo documented at least 11 attacks on lesbian, gay and bisexual people based on their sexual orientation. Of these, five gay men and two lesbians were victims of police abuse. Police arbitrarily detained all five of the gay men in public places and forced them under threat of disclosure of their sexual orientation to hand over money. The police detained the two lesbians who were in a park, filmed them while they asked them personal questions, and forced them to pay 4,000 soms (US\$ 80) in order for the police to delete the videos. In four other cases, the perpetrators were unidentified assailants. In one case from July 2013, four men followed a 20-year-old gay man as he left a store, dragged him into a

¹ Criminal Code of Kyrgyzstan (with amendments of November 1, 2013), http://online.adviser.kg/Document/?doc_id=30222833 (accessed August 27, 2013).

² World Bank, "Kyrgyz Country Case Study," World Development Report 2012: Gender Equality and Development, 2011, http://siteresources.worldbank.org/INTWDR2012/Resources/7778105-1299699968583/7786210-1322671773271/lbraeva_Kyrgyz_case_study_final_Sept2011.pdf (accessed July 30, 2013).

³ Human Rights Watch email correspondence with Daniyar Orsekov and Danik Kasmamytov, September 18, 2013.

nearby botanical garden in Bishkek, and raped and beat him, breaking his hand and giving him a concussion. The man did not report this incident to the police.⁴

Two LGBT activists were also victims of homophobic attacks in the first half of 2013. On March 11, 2013, five men attacked Nazik Abylgazieva, the executive director of the Bishkek-based LGBT organization Labrys, at a disco. One attacker hit her with a glass bottle, giving her a concussion. When police arrived they told Abylgazieva that she should not expect anything less from perpetrators because she is a lesbian.⁵ The police registered Abylgazieva's complaint but did not proceed with an investigation.

In a separate case, on May 27, 2013, five waiters in a restaurant in Osh harassed a group of gay men, including four gay men from Osh, a Labrys board member, and three employees of the Bishkek-based LGBT rights NGO Kyrgyz Indigo, all of whom were visiting Osh. The waiters followed the group, called them "fags," and told them that gays were "not welcome" in their restaurant. One of the waiters punched the Labrys board member in the jaw. The men did not report the incident to the police, out of fear for their safety. The man from Osh moved to Bishkek fearing further violence.⁶

Limiting Free Expression on LGBT Issues

The Kyrgyzstan authorities have limited free expression on LGBT issues in certain instances. In September 2012, the general prosecutor's office ordered organizers of a film festival to refrain from screening the film *I am Gay and Muslim*. The State Committee on Religious Affairs assessed the content of the film to be "extremist," "offensive to Muslims," and "inciting inter-religious hatred."⁷ Human rights defender and film festival organizer Tolekan Ismailova received threats from religious groups and was ridiculed in the media for including the film in the festival's program. Ismailova appealed the decision to quash the film screening, but the Supreme Court has repeatedly postponed hearings on this case.⁸

⁴ Cases documented by Labrys and Kyrgyz Indigo on file with Human Rights Watch.

⁵ Human Rights Watch interview with Nazik Abylgazieva, Bishkek, March 11, 2013.

⁶ Human Rights Watch interview with Dastan Kasmamytov, Bishkek, June 17, 2013.

⁷ "Kyrgyzstan: Film Ban Violates Free Speech," Human Rights Watch news release, October 4, 2012, <http://www.hrw.org/news/2012/10/04/kyrgyzstan-film-ban-violates-free-speech>.

⁸ Human Rights Watch email correspondence with Tolekan Ismailova, August 7, 2013.

Police Abuse and Corruption in Kyrgyzstan

Human Rights Watch and other international and domestic human rights groups have documented persistent police abuse in Kyrgyzstan. Minority groups, including ethnic Uzbeks, drug users⁹, sex workers¹⁰, as well as LGBT people¹¹, are particularly vulnerable to violence and extortion on the part of law enforcement officials.

The Organization for Security and Co-operation in Europe (OSCE) has reported that it received reports about arbitrary arrests, extortion and abuse by police in Kyrgyzstan throughout 2012. Following his December 2011 mission to Kyrgyzstan, UN special rapporteur on torture, Juan Mendez, concluded that the “use of torture and ill-treatment to extract confessions remains widespread.”¹² Mendez identified the following forms of torture as a pattern: asphyxiation with plastic bags, punches and beatings with truncheons, the application of electric shock and the introduction of foreign objects into the anus, or the threat of rape.¹³ In its concluding observations after a review of Kyrgyzstan in November 2013, the United Nations Committee Against Torture (CAT) stated that it is “deeply concerned about the ongoing and widespread practice of torture and ill-treatment of persons deprived of their liberty, in particular while in police custody to extract confessions.”¹⁴

The OSCE secretary general’s 2012 report on police-related activities across the OSCE area noted that Kyrgyzstan’s Ministry of Internal Affairs demonstrated “limited commitment” to addressing allegations of human rights abuses and prioritizing an internal mechanism to

⁹ Leo Beletsky et al., “Policy reform to shift the health and human rights environment for vulnerable groups: The case of Kyrgyzstan’s Instruction 417,” *Health & Human Rights: An International Journal*, vol. 14 (2012), pp. 34-48.

¹⁰ Sex Workers Rights Advocacy Network, “Arrest the Violence: Human Rights Violations Against Sex Workers in 11 Countries in Central and Eastern Europe and Central Asia,” November 2009.

¹¹ LGBT organization Labrys and Sexual Rights Initiative submission to the UN Human Rights Council, May 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/JS1_UPR_KGZ_So8_2010_JointSubmission1.pdf (accessed August 20, 2013); Latypov et al., “Prohibition, stigma and violence against men who have sex with men: effects on HIV in Central Asia,” *Central Asian Survey*, vol. 32 (2013), p.6; and Open Society Foundations, “Access to Health Care for LGBT People in Kyrgyzstan,” July 2007, http://www.opensocietyfoundations.org/sites/default/files/kyrgyzstan_20071030.pdf (accessed December 17, 2013).

¹² UN Commission on Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Visit to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 17, 2013).

¹³ *Ibid.*

¹⁴ UN Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan, CAT/C/SR.1205, November 12, 2013, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KGZ/CAT_C_KGZ_CO-2_15828_E.doc (accessed December 17, 2013).

address these allegations.¹⁵ According to one expert who has analyzed the OSCE police reform project in Kyrgyzstan and other countries in Central Asia, officials of Kyrgyzstan's Ministry of Internal Affairs have "consistently ignored the importance of improving human rights," as part of the police reform process. The expert stressed that more should be done to involve community leaders, NGOs, local governments, and political leaders in shaping police reform.¹⁶

According to Voice of Freedom, a human rights organization in Kyrgyzstan working on torture and other rights issues, in 2012 the Supreme Court of Kyrgyzstan registered 371 complaints of torture. In 340 cases, investigators refused to open criminal investigations into the complaints. Twenty cases were sent to court; but only 11 police officers were convicted.¹⁷

Non-governmental and inter-governmental organizations also report that police corruption is widespread.¹⁸ The Ministry of Internal Affairs of Kyrgyzstan highlighted corruption within law enforcement in its proposed strategy for law enforcement reform for 2013-2017.¹⁹

International and NGO Engagement in Police Reform

International actors have highlighted concern about the widespread problem of ill-treatment and torture in discussions of Kyrgyzstan's human right record, including the prevailing climate of impunity for those abuses. For instance, the US government has on a number of occasions expressed concern about widespread use of torture in Kyrgyzstan.²⁰

¹⁵ OSCE, "Annual Report of the Secretary General on Police-Related Activities in 2012," SEC.DOC/1/13, August 2, 2013, <http://polis.osce.org/library/f/4072/3789/OSCE-AUT-RPT-4072-EN-3789> (accessed August 22, 2013), p. 137.

¹⁶ Erica Marat, "OSCE Police Reform Programmes in Kyrgyzstan and Tajikistan: Past Constraints and Future Opportunities," *EU-Central Asia Policy Monitor*, October 2012, http://www.fride.org/download/PB_27_Eng.pdf (accessed July 23, 2013); Open Society Foundations, "Reassessing the Role of OSCE Police Assistance Programming in Central Asia," April 2011, <http://www.opensocietyfoundations.org/sites/default/files/OPS-No-4-20110411.pdf> (accessed December 17, 2013), p.52.

¹⁷ Human Rights Watch email correspondence with Asel Koilubayeva, Voice of Freedom, April 10, 2013.

¹⁸ Transparency International ranked Kyrgyzstan 154th out of 176 countries surveyed in 2012 for overall levels of corruption. Transparency International, "Corruption Perception Index 2012," December 2012, http://www.transparency.org/whatwedo/pub/corruption_perceptions_index_2012 (accessed March 31, 2013). Robert Oostvogels, "Police practices and sex work in Bishkek Kyrgyz Republic: Assessment and review of existing interventions and strategies," December 2005, on file with Human Rights Watch.

¹⁹ Ministry of Interior of Kyrgyzstan, "The Concept of Law Enforcement Bodies Reform and High Priority Measures for its Implementation for 2013-2014," http://mvd.kg/index.php?option=com_content&view=article&id=38897%3A-l-2013-2014-r&catid=71%3Anews&Itemid=522&lang=ru (accessed March 31, 2013).

²⁰ "Statement on the Decision by the Kyrgyz Supreme Court to Uphold the Convictions of Azimjon Askarov and Others," Embassy of the US in Bishkek, December 22, 2011, http://bishkek.usembassy.gov/pr_122711_usosceaskarov.html (accessed September 10, 2013); US Embassy Bishkek, Press Release: "U.S. Embassy Concerned About Allegations of Torture

For many years, international donors, including the OSCE, the EU, and the United States government, as well as civil society groups in Kyrgyzstan, have undertaken police reform projects on a range of issues including torture prevention.

The OSCE Center in Bishkek in a letter to Human Rights Watch stated that “ill-treatment and torture in detention remains a major human rights concern in Kyrgyzstan.”²¹ The work of the center is aimed at strengthening public oversight of police work and cooperation with NGOs and the government of Kyrgyzstan to achieve this goal. Regarding the rights of LGBT people, the letter noted that there is no consensus among OSCE participating states about the inclusion of “sexual orientation” as grounds for protection from discrimination, and that therefore, the OSCE has never made explicit commitments regarding LGBT people’s rights. However, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) collects information about hate crimes against LGBT people.²²

The Regional Office for Central Asia (ROCA) of the UN Office of the High Commissioner for Human Rights (OHCHR) prioritized the establishment of a national preventative mechanism to address torture and improve policies around ethnic minority rights²³. ROCA has been instrumental in engaging with the government of Kyrgyzstan on drafting of a National Preventative Mechanism.²⁴

None of these police reform programs specifically address, include, or even mention the rights and vulnerabilities of LGBT people. However, LGBT organizations and international HIV prevention groups do engage with the Ministry of Internal Affairs. In 2012 and 2013, the Kyrgyz LGBT organizations Labrys and Kyrgyz Indigo conducted trainings for police academy cadets about the particular vulnerabilities of LGBT people.

of Detainees in Kyrgyzstan,” Embassy of the US in Bishkek press release, January 31, 2011, http://bishkek.usembassy.gov/pr_01_13_11.html (accessed December 17, 2013).

²¹ OSCE letter to Human Rights Watch, November 25, 2013, on file with Human Rights Watch.

²² Ibid.

²³ OHCHR – Central Asia Regional Office website, <http://www.ohchr.org/en/countries/enacaregion/pages/centralasiasummary.aspx> (accessed September 17, 2013)

²⁴ OHCHR, “OHCHR in the field: Europe and Central Asia,” 2011, http://www2.ohchr.org/english/ohchrreport2011/web_version/ohchr_report2011_web/allegati/24_Europe.pdf (accessed September 16, 2013), p. 336.

Currently there are two civil society initiatives underway which are aimed at improving the quality of police work. One of them is run by the Citizen Union for Reform and Result, a coalition of 24 NGOs from different parts of Kyrgyzstan that has developed an “alternative concept of police reform” and is cooperating with the Ministry of Internal Affairs to implement its plans. The other initiative developed guidelines for the police for interacting with groups that are vulnerable to HIV. However, neither of these initiatives specifically addresses police abuses against LGBT people.

The “alternative concept of reform” mostly focuses on restructuring the Ministry of Internal Affairs, improving professional police training and hiring practices, and ensuring closer cooperation between civil society and the ministry.²⁵ In July 2013, the Citizen Union For Reform and Result also initiated a project that would allow individuals and NGOs to report police abuse using an interactive website called the Kyrgyzstan Security Map.²⁶ The map will be used to document abuses committed by the police and to enhance the efforts of human rights groups reporting and advocating issues related to police abuse. The Citizen Union For Reform and Result has signed agreements with law enforcement bodies, prosecutor’s offices, and the mayors’ offices in Bishkek and Osh to each dedicate one staff member to respond to complaints lodged via the interactive map.²⁷

Since 2009, HIV prevention NGOs in Kyrgyzstan, in cooperation with AIDS Foundation East-West and the Soros Foundation – Kyrgyzstan, have engaged with the Ministry of Internal Affairs to develop police Instruction 417, a directive that would create “a favorable climate for the participation of vulnerable groups in HIV prevention and harm reduction programs.”²⁸ The directive states that police officers should not “discriminate and infringe on rights of vulnerable groups, [display] rudeness or actions or words that would violate their honor and dignity, [...] [and should] act without expressing any negative feelings and in all cases remain peaceful and calm.”²⁹

²⁵ “Alternative and Actual concepts of Ministry of Interior Reform,” *Reforma.kg*, August 11, 2013, <http://www.reforma.kg/articles/view/81> (accessed August 13, 2013).

²⁶ “Proposal to public groups and activists regarding cooperation in the framework of the Kyrgyzstan Security Map,” *Reforma.kg*, July 29, 2013, <http://www.reforma.kg/articles/view/77> (accessed August 13, 2013).

²⁷ Human Rights Watch email correspondence with Timur Shaihutdinov, representative of Citizen Union for Reforms and Results, August 20, 2013.

²⁸ Ministry of Internal Affairs of Kyrgyzstan, “Instruction for staff of law enforcement bodies on HIV prevention among staff and vulnerable groups of the population, Instruction 417,” 2008, on file with Human Rights Watch, p. 1.

²⁹ *Ibid*, p. 4.

However, according to experts involved in the development of the directive, while police have implemented it with respect to certain vulnerable groups such as drug users and sex workers, they have not yet implemented it with respect to gay and bisexual men.³⁰

These efforts demonstrate that certain changes in addressing police abuse in Kyrgyzstan through specific policing reforms are possible and under way.

LGBT Rights Activism

Despite a pervasively negative climate for LGBT rights, marked by threats and harassment of members of the LGBT community, at least 11 LGBT organizations or projects addressing gay and bisexual men's rights and other issues exist in Kyrgyzstan. Six of these groups are located in Bishkek, two in the northern city of Talas, two in the southern city of Osh and one in Karabalta, near Bishkek. In recent years, these groups have made significant strides in making LGBT rights in Kyrgyzstan more visible nationally and internationally.

In addition, in 2012, for the first time, the former ombudsman of Kyrgyzstan, Tursunbek Akun, added a section on LGBT rights to his annual human rights report. The public response to the ombudsman's decision to discuss LGBT rights was largely negative, however. One independent political scientist claimed that Kyrgyzstan's "society is not ready to have problems of sexual minorities considered at such a high level. The population in general is very critical of this category of citizens," and called on the Office of the Ombudsman to prioritize other human rights violations.³¹ Current Kyrgyzstan Ombudsman Baktybek Amanbayev noted that he is committed to protecting LGBT people's rights like those of any other citizens of Kyrgyzstan.³²

³⁰ Human Rights Watch email correspondence with Rachel Thomas, Sexual Health and Rights Project, Open Society Foundations, August 8, 2013.

³¹ Alan Sagimbayev, "Ombudsman concerned with the rights of homosexuals," Vesti.kg, November, 2, 2011, http://www.vesti.kg/index.php?option=com_k2&view=item&id=15711:ombudsmen-ozabotilsya-pravami-gomoseksualistov&Itemid=80 (accessed July 20, 2013).

³² Sherzod Babakulov, "Ombudsman Amanbayev promises to protect LGBT rights," Kloop.kg, <http://kloop.kg/blog/2013/10/04/ombudsmen-amanbaev-obeshhaet-zashhishhat-prava-lgbt/> (accessed November 10, 2013).

II. Police Violence, Threats, and Extortion

Most of the 40 gay or bisexual men Human Rights Watch interviewed for this report in four different cities in Kyrgyzstan reported physical abuse, threats, or extortion, or a combination of these abuses during one or multiple encounters with the police or other law enforcement agents from 2004 to 2013. Two of those who reported abuse were 17 years old at the time of the abuse. Many of those interviewed also reported physical violence while in police detention, including being punched, kicked, beaten with a gun butt, or other objects. Six of the interviewees, including one of the 17-year-old boys, reported being raped with an object or being forced by officers or other detainees to perform sexual acts. In some cases this treatment rose to the level of torture.

Most of the interviewees also reported threats of death or physical violence, including threats of death, rape, arrest, or disclosure of sexual orientation. All of the gay and bisexual men interviewed by Human Rights Watch who had been detained by police also stated that police officers humiliated them, verbally assaulted them, and used offensive language related to their sexual orientation, ethnicity, or both.

Most of the gay and bisexual men interviewed by Human Rights Watch said that the police threatened to disclose their sexual orientation to their family members, employers, university administration or others. Disclosing someone's sexual orientation may have serious and lasting consequences including violence, loss of employment, and social and family ostracism.

Many interviewees reported having to give the police money ranging from US\$12 to \$1,000 to avoid further physical violence, being detained in the first place, or to ensure that police would not disclose their sexual orientation to family members or others.

Many of the men interviewed by Human Rights Watch who had been detained by police reported that they were arbitrarily deprived of their liberty. In the cases documented by Human Rights Watch, police often detained the men arbitrarily and subjected them to a number of serious violations of their basic and due process rights guaranteed under national and international law.

Under Kyrgyzstan law, whenever the police bring a person into custody, the time and the name of the individual must be recorded in a protocol of administrative detention.³³ All of the men interviewed by Human Rights Watch and held in police stations said that their detentions were not registered upon entry to the stations. According to the UN special rapporteur on torture's 2012 report on Kyrgyzstan, the police often do not register the persons brought into custody, despite the legal requirement.³⁴

Administrative detentions should not last longer than three hours. After three hours, police are required to draw up a protocol of administrative violation or release the person.³⁵ Most men interviewed by Human Rights Watch who were detained at a police station were kept there beyond the three-hour time limit, but the police failed to properly register their detentions with a written protocol. Most of the gay and bisexual men interviewed by Human Rights Watch who had been detained by the police reported that they experienced ill-treatment during the first hours of their detention. The UN special rapporteur on torture's 2012 report on Kyrgyzstan also noted, based on numerous testimonies, that torture and ill-treatment are often committed during the first hours of informal interrogation.³⁶

There is a climate of impunity for these types of crimes committed against gay and bisexual men and boys, as detailed below. Many gay and bisexual men, including human rights defenders, told Human Rights Watch that they feel unable to file complaints and access existing systems of redress in Kyrgyzstan for fear of negative repercussions and because they lack confidence in the authorities' willingness to pursue their complaints.

In only two cases, people interviewed by Human Rights Watch filed complaints with the authorities about police abuse. In one case, the prosecutor's office declined to open a criminal investigation; in the other, the victim received no response whatsoever to his complaint.

³³ Code of Administrative Responsibility of Kyrgyzstan, adopted August 4, 1998, art. 556.

³⁴ UN Commission on Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Visit to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 17, 2013), p. 8.

³⁵ Code of Administrative Responsibility of Kyrgyzstan, adopted August 4, 1998, art. 565.

³⁶ UN Commission on Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Visit to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 17, 2013), p. 8.

Some of the interviewees who are ethnic Uzbek told Human Rights Watch that the police made specific references both to their ethnicity as well as their sexual orientation when ill-treating them or attempting extort money from them. In some instances in which police approached groups of men they suspected were gay, they only detained ethnic Uzbeks. Human Rights Watch has documented dozens of cases of arbitrary detentions and ill-treatment of ethnic Uzbeks in southern Kyrgyzstan, in the wake of the 2010 interethnic violence in that region.³⁷

Physical Abuse, Ill-Treatment and Torture

Many of the gay and bisexual men interviewed by Human Rights Watch experienced a range of physical violence at the hands of police, including punches to the face and other parts of the body, kicking, pulling hair, and punches to the head with a gun handle. Several of these cases are described in this section. Two of these interviewees were 17 years old at the time of the abuse. Police also raped or committed other acts of sexual violence against six of these people, including one of the 17-year-old boys. Police also threatened all of these men and boys with further violence, including in some cases with death or rape. In some instances, police extorted money from them under threat of additional violence or disclosure of the men's sexual orientation to their families or employers. In some cases, the treatment rose to a level of severity to constitute torture, which is prohibited under both Kyrgyzstan and international law.

Kyrgyzstan's criminal code defines torture as:

Deliberately inflicting physical or mental suffering against any person for the purpose of obtaining information or confession from him/her or another person; punishing a person for an act which a person has committed or is suspected of committing; or for the purpose of intimidating and compelling him/her to commit certain actions; or for any other reason based on

³⁷ Human Rights Watch, *Kyrgyzstan—Where is the Justice?: Interethnic Violence in Southern Kyrgyzstan and its Aftermath*, August 16, 2010, <http://www.hrw.org/en/reports/2010/08/16/where-justice>; *Distorted Justice: Kyrgyzstan's Flawed Investigations and Trials on the 2010 Violence*, June 8, 2011. Human Rights Watch documented how Kyrgyz authorities failed to prevent or stop violence once it erupted, and strong indications that some military and police forces knowingly or unwittingly facilitated attacks on Uzbek neighborhoods. While most victims of the June violence were ethnic Uzbek, most detainees—almost 85 percent—were also ethnic Uzbek. Victims also described to Human Rights Watch how law enforcement personnel used ethnic slurs during their detention, leading to serious concern that there was an ethnic bias in the investigation and prosecution of perpetrators.

discrimination of any kind, when these acts are committed by a public official or based on his/her encouragement or with the knowledge or silent consent of a public official.³⁸

Torture is punishable by up to eight years in prison. The criminal code also prohibits public officials from committing acts of violence, including by “clearly exceeding his/her limits of authority and resulting in violation of rights and lawful interests of citizens,” which, if the acts involve violence, are also punishable by up to eight years in prison.³⁹

Fathullo F.

Police in different districts in a town in southern Kyrgyzstan detained, beat, and threatened with death 32-year-old Fathullo F. in three incidents in 2012 and 2013. Each time police detained and beat Fathullo F., they forced him to hand over large sums of money under threat of disclosing his sexual orientation to his family.

In one incident in May 2012, Fathullo F. received a phone call from a friend who said he had arranged a date for him with another man near a local hotel.⁴⁰ Fathullo F. described how soon after he arrived at the designated meeting location, police officers, who were apparently waiting for him, grabbed him and said to him, “Let’s go, you wasted fag,” and handcuffed him. According to Fathullo F., “I felt so ashamed. [This happened] in front of so many people and in my district.”⁴¹

Fathullo F. described how police treated him after taking him to a nearby station:

I didn’t want to write an explanation note [in Russian, *obyasnitelnaya*], but they punched me in the face and in my ear, and I had to write. They dictated what I had to write. I had to write my name, that I am married, my address

³⁸ Criminal Code of Kyrgyzstan, art. 305-1. Torture is punishable by up to eight years’ imprisonment and one to three years of deprivation of the right to engage in certain professional activities. This definition generally corresponds to the definition of torture in the UN Convention against Torture, with the exception of the last part of the definition in Kyrgyzstan’s criminal code, which says that intentional infliction of suffering can be torture when it committed with the “knowledge” of a public official as opposed to “acquiescence” in the Convention against Torture, article 1.

³⁹ Criminal Code of Kyrgyzstan, art. 305.

⁴⁰ Human Rights Watch group interview with Fathullo F. (not his real name) and three other men, August 3, 2012.

⁴¹ Ibid. In Kyrgyz, Uzbek, and Russian languages there are a large number of derogatory slang and swear terms used to humiliate and offend by implying that a person is gay. In this report, all of those different words are replaced by the English terms “fag” or “faggot.”

and that I wanted to meet a man and “give in” to him [have passive anal sex with him] and suck his penis.⁴²

The police also forced Fathullo F. to give them contact information for his workplace and his family’s home and work addresses.⁴³

The officers also threatened to initiate a criminal “sodomy” [In Russian, *muzhelozhstvo*] case against Fathullo F. unless he gave them money and contact information for other gay men. Kyrgyzstan law does not criminalize consensual sex between men, but some police officers, exploiting the likely possibility that men, particularly in southern Kyrgyzstan, do not know the law in full, use the threat of charges under such a law in order to pressure gay men to give them money or to provide contact information for other gay men.

According to Fathullo F.:

The police told me that they would let me out quietly to “swim as a fish” if I provided them with someone else they could demand money from. I didn’t give them any numbers because I did not want to betray others. They hit me in the mouth when I refused to talk. I was there for hours.

The officers told me that people like me do not deserve to be on face of the earth. I asked them to let me sit down because I was tired. They said that I didn’t deserve to use their chair and spat on me. They said that I didn’t deserve to live, and threatened to destroy me if I didn’t give them 10,000 soms [US\$214]. I told them I only had 5,000 soms [\$107].⁴⁴

Police eventually brought Fathullo F. to his neighborhood and allowed him to go into his house to get his savings, which he gave to the police. They told Fathullo F. to forget about the incident and threatened to cut off his tongue if he told anyone about it.⁴⁵

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

This case shattered the small community of gay men in the town where Fathullo F. lives. Fathullo F. and several others told Human Rights Watch that they all changed their cell phone numbers and did not meet each other for months out of fear of being targeted by the police. At the time of the interview with Human Rights Watch, which took place more than three months after the incident, Fathullo F. stated that his ear still hurt from where police officers had punched him.⁴⁶

In a separate incident in February 2013, three police officers detained Fathullo F. as he traveled to work on a public minibus, and again beat, threatened and extorted money from him. He described the experience to Human Rights Watch:

Everyone in the minivan was watching. They [the police] were rude to me and told me to get out. The police didn't explain anything. They pushed me into their car. One of them hit me in the chest with his elbow. A man sitting in front of the car accused me of raping him many times. I had never met this man and told the police this. They said that they will call a witness [who could confirm the allegations], and then [one of them] hit me with his elbow again. "Why don't you admit that you did it," they asked.⁴⁷

Fathullo F. told Human Rights Watch that the police took his mobile phone and a copy of his passport. When Fathullo F. asked for his phone in order to call his friends to let them know he was being held by the police, one of the officers punched him twice. Police officers demanded \$ 1,000 and threatened to disclose Fathullo F.'s sexual orientation to his family. As Fathullo F. described:

I told them I only had 5,000 soms [\$ 100]. The police officers said that it wasn't enough and that it's easier for them to put me in jail than take so little. They said that in jail everyone would know about my sexual orientation and I wouldn't survive for even a week. Then they forced me to open my bag, took 7,000 soms [\$145], threw the bag and my cell phone on

⁴⁶ Ibid.

⁴⁷ Human Rights Watch interview with Fathullo F. (not his real name), February 25, 2013.

the ground and let me go. They said, “If you open your mouth, we have a copy of your passport and next time this will get worse.”⁴⁸

Fathullo did not report this incident because he was worried that the police would disclose his sexual orientation to his family.

Mansur M.

Police detained, beat, and extorted money from 45-year-old Mansur M. in October 2012 in a town in southern Kyrgyzstan after an acquaintance apparently revealed Mansur M.’s sexual orientation to the police. Mansur M. told Human Rights Watch that he had invited this acquaintance to a birthday party, and while he was out of the room, the acquaintance took his cell phone and left. When Mansur M. arrived at a pre-arranged location to meet the friend to get his phone back, four police officers in unidentified civilian clothes, all of whom were apparently waiting for Mansur M., forced him into a car, and drove him to a police station. Mansur M. described his treatment there:

When we came to the police station ... they started calling me a *Sart* [a derogatory term in Kyrgyz for an ethnic Uzbek] and faggot. A tall police officer pressed hard on my shoulder. I lost consciousness. [When I awoke,] I was on the floor and they were kicking me.

They told me that they will prosecute me for sodomy. They told me to bring \$200 the next day or they would tell [everyone in] my neighborhood [about my sexual orientation].

An [ethnic] Uzbek officer helped me get out. He took me to his office and let me go, but took 120 soms [\$3]. As I was leaving the office, an [ethnic] Kyrgyz officer grabbed me by the hair and slammed my head against the wall. He said “Not only you are a fag, but you also came to see another *Sart*.”⁴⁹

Mansur M. told Human Rights Watch that he was scared that the police would find him and cause him further harm. He changed his phone number and now avoids going to the

⁴⁸ Ibid.

⁴⁹ Human Rights Watch interview with Mansur M. (not his real name), October 21, 2012.

district where he was detained. Mansur M. went to a public health clinic the next day but saw police entering at the same time and ran away. A friend of Mansur M.'s who works for an NGO offered to help him file a complaint, but Mansur M. declined, worried that his family would find out about his sexual orientation.⁵⁰

At the time of the interview with Human Rights Watch, a few days after this incident, Mansur M. reported continuing pain in his chest. He was agitated and worried that someone may overhear the interview, and he walked in and out of the interview location to check whether anyone was watching or listening.

Isroil I.

Isroil I., a gay man in his 20s, told Human Rights Watch that police in a town in Southern Kyrgyzstan detained, beat, threatened, and extorted money from him in two separate incidents in recent years.

In late summer 2010, two plain-clothed police officers detained him and two of his gay acquaintances in a park after two other gay men, who were with the police officers, pointed at Isroil I. and identified him as being gay. Police promptly took all five men to the station.

Isroil I. told Human Rights Watch that the police beat him in order to force him to admit to having had sex with the two men who reported him. Isroil I. initially wrote that he did not know these men, but after more beatings he wrote what the officers dictated, including that he was gay and that he had sex with one of the two men. The police then used this statement to extort money from him, threatening to tell his family about his sexual orientation, something that he particularly feared. He told Human Rights Watch:

It was the worst thing for me when they threatened to tell my family. I have brothers who are very religious. One word and this would be death [for me]. I wrote what the police told me to write. I was scared that they would tell my family. I wrote my name and address. I didn't know what to do. They let me go after I said that I could give them 3,000 soms [\$60]. They threatened me and then let me go [get the money]. I had to lie to my mom to get this money. I went back to the station and gave the money to the

⁵⁰ Ibid.

police. I asked for my statement, and they handed it to me and insisted I tear it up in their presence.⁵¹

In a separate incident in January 2013, two uniformed police officers stopped Isroil I. and three friends as they walked out of a café one evening in a town in southern Kyrgyzstan. After asking for the men's IDs, the police let two of the men go, one apparently because of his Kyrgyz ethnicity, the other because he was elderly. The police drove Isroil I. and Aziz A., one of the other men, both ethnic Uzbeks, to the police station. Isroil I. asked why he and Aziz A. were being taken to the police station. One of the officers replied that it was because it was late and they had been drinking.

In the car, the police officers started calling Aziz A. gay. When Isroil I. had his fingerprints taken at the police station, the officer also asked about his sexual orientation and kicked him in the buttocks. The police officer then said that Aziz A. (detained with Isroil I.) was Isroil I.'s boyfriend and that "he pays you to sleep with him."⁵² One police officer also indicated to Isroil I. that he himself wanted to have sex with Aziz A., but Isroil I. insisted that his friend was not gay.

Police eventually allowed Isroil I. to call his brother, who brought 1,900 soms (\$40), which Isroil I. paid to secure their release. Isroil I. did not complain about his treatment due to fear of retaliation.

Isroil said that Aziz A. was beaten by other detainees while they were at the police station, apparently because Aziz A. was gay. Isroil I. described Aziz's condition to Human Rights Watch: "When we were released, his face was covered in blood. He had a bloody nose and his lips were swollen."⁵³

Mikhail Kudryashov

In 2010, a man contacted Mikhail Kudryashov two times, then 22, in response to Kudryashov's online advertisement about films with gay themes.⁵⁴ During the second

⁵¹ Human Rights Watch interviews with Isroil I., February 25 and 27, 2013.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Mikhail Kudryashov's case has been widely publicized in a number of national and international media outlets and addressed by local and international human rights groups.

meeting, on October 30, as the man paid Kudryashov for DVDs, seven financial police officers, who had been recording the exchange on a video camera, appeared and started to threaten Kudryashov. One of the officers pressured Kudryashov to sign a confession that he was distributing pornography. If he did not, the officer said, “We will do anything we want. Not even a wet spot will remain of you, and you won’t want to live afterwards.”⁵⁵

Next, the officers pushed Kudryashov into their car and drove him to the financial police office where they beat him severely and threatened him repeatedly with rape. Kudryashov described the several hours of ill-treatment to Human Rights Watch:

They told me to raise my hands. ... I raised my hands and one of the police officers hit me in the chest. I fell down from the pain. He yelled, “Get the fuck up!” and kicked me in the head. I lost consciousness. I don’t know how they woke me up. I was covered in saliva and really wanted to throw up. They picked me up from the floor and told me to undress. I didn’t undress and then they hit me in my stomach. I took my clothes off.

One of them had a glass beer bottle in his hand. He said, “Okay, come on, bend over, we will push this inside you. Since you don’t want straight dicks, then we will use a bottle.” One of them took his phone out and started recording this on his phone camera. “You bitch, look at the camera,” he said. They took the bottle and started hitting me on my back, chest and legs. One of them held my hands so that I could not protect myself.⁵⁶

Mikhail told Human Rights Watch that the officers used a coat hanger and beer bottles to beat Kudryashov for several more hours and also threatened to rape him with the hanger. Kudryashov told Human Rights Watch:

One of them took the hanger and yelled, “Here, choose which part of this we will use to fuck you.” He hit me with it couple of times. Then he would wave it at me to scare me. I begged them to stop. My tears were falling like hail, but they kept yelling at me. They yelled, “Hey, are you a fag or what? A

⁵⁵ Human Rights Watch interview with Mikhail Kudryashov, Bishkek, August 15, 2012

⁵⁶ Ibid.

fag, right? You fuck in your ass, right? Do you want us to fuck you? Do you even know in which country you live? We can't stand fags here, you know dick-sucker!" This continued for four hours.⁵⁷

Police officers put handcuffs on Kudryashov and took him to his apartment. There they took all of Kudryashov's documents, his computer and valuables, he said.⁵⁸ None of these valuables were returned to Kudryashov.

Kudryashov's friend Edik E., a 24-year-old shop assistant, happened to have come to check on Mikhail's apartment when the police arrived. Police also detained him and took him to a building used by the financial police.⁵⁹ Edik E. told Human Rights Watch: "They [the police] started asking us who is active and who is passive. They asked, "Are you together, faggots? Do you two live and sleep together? Who plays which role?"⁶⁰

Both Edik E. and Kudryashov told Human Rights Watch that police officers beat them up and released them in the middle of the night only after they wrote complaints about and disclosed contact information for three other gay men.⁶¹

The next day, the police visited the three gay men: Maksim Bratukhin, his boyfriend, and LGBT activist Nikolai Rudin, accusing them of "homosexuality" and being connected to dissemination of pornography. Beyond these threats, police took no actions against them.⁶²

Three days after his release, on November 2, Kudryashov went to a private medical clinic where a doctor prescribed treatment for Kudryashov's multiple symptoms, including: headaches, insomnia, panic attacks, trembling, muscle spasms, loss of appetite, and depression. On November 3 he visited the state forensic medical examiner (in Russian, *sudmedekspertiza*) who concluded that his injuries included bruises that could have been caused by "a blunt, hard object" but described them as "minor" and said that they "[would]

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Human Rights Watch interview with Edik E, Bishkek, July 28, 2012.

⁶⁰ Ibid.

⁶¹ Human Rights Watch interviews with Edik E., Bishkek, July 28, 2012, and with Mikhail Kudryashov, Bishkek, August 15, 2012.

⁶² Ibid.

not affect his health for more than seven days.”⁶³ The medical examiner referred Kudryashov to a neurologist who confirmed that he had suffered a concussion. On November 3 and 4 Kudryashov visited two other health clinics where doctors similarly diagnosed him with a concussion; one doctor also documented significant bruising on his upper and lower back and elbow.⁶⁴

On November 4, 2010, Kudryashov filed a complaint against the financial police officers who ill-treated him. In response, the Bishkek city prosecutor’s office conducted an internal inquiry about the alleged conduct, but on November 30, 2010, it stated its refusal to open a criminal investigation.⁶⁵ Kudryashov appealed the refusal to open a criminal investigation to the general prosecutor’s office and through the courts, but his appeal was unsuccessful.⁶⁶ In his appeal, Kudryashov noted that among other procedural issues related to his detention, the neurologist’s diagnosis of a concussion was not included in the original forensic medical report written following his visit to the medical examiner on November 3, as the neurologist’s diagnosis was report was not provided to the medical examiner until November 26. In addition, in its decisions regarding the opening of a criminal case, the prosecutor’s office failed to consider any of the medical evidence confirming that Kudryashov had suffered a concussion. The prosecutor’s office also did not order any additional medical examinations for Kudryashov.⁶⁷

Kudryashov has appealed to the UN Human Rights Committee.⁶⁸ The committee included his case in the List of Issues for its review of Kyrgyzstan in March 2014.⁶⁹

⁶³ National Bureau of Court-Medical Expertise, Ministry of Health of the Kyrgyz Republic, Expert Conclusion, November 2010, on file with Human Rights Watch.

⁶⁴ Medical documents of Mikhail Kudryashov, on file with Human Rights Watch.

⁶⁵ Court documents on file with Human Rights Watch.

⁶⁶ Mikhail Kudryashov’s court materials, on file with Human Rights Watch.

⁶⁷ Appeal from Mikhail Kudryashov to the Bishkek City Court, March 30, 2012; Forensic medical examiner report, November 4, 2010; and other medical documents provided by Mikhail Kudryashov to Human Rights Watch. All documents on file with Human Rights Watch.

⁶⁸ Human Rights Watch interview with Sardar Bagishbekov, May 2, 2013; Human Rights Watch email correspondence with Asel Koluibaeva, August 12, 2013, on file with Human Rights Watch.

⁶⁹ “Please describe the measures adopted to prevent and punish discrimination based on gender identity and sexual orientation as well as the remedies available to victims of such discrimination. Please provide detailed information on the case of Mikhail Kudryashov who was detained and beaten while in police custody in October 2010 for allegedly disseminating gay films.” UN International Covenant on Civil and Political Rights, “List of issues in relation to the second periodic report of Kyrgyzstan,” CCPR/C/KGZ/Q/2, August 22, 2013, <http://www.refworld.org/pdfid/52a9985f4.pdf> (accessed December 18, 2013).

Although the authorities did not investigate the abuse against Kudryashov, they continued to pursue the case against him. On March 4, 2011, the Oktyabrskiy District Court in Bishkek found Kudryashov guilty of “distribution of pornography” and gave him a 1.5-year suspended sentence.⁷⁰ In July 2011, the Bishkek City Court rejected Kudryashov’s appeal.

According to Kudryashov, during the court proceedings, different judges and prosecutors repeatedly asked Kudryashov questions about his sexual orientation and told him that he didn’t deserve to live in Kyrgyzstan as a gay man.⁷¹

Financial police threatened one witness for the defense, Maksim Bratukhin, head of the LGBT NGO Pathfinder, as he was waiting to enter the courtroom, telling him he would “lose his tongue” for making the case public and that the police should have “already eliminated people like you.”⁷²

Edik E.

Two years after his detention and beating together with Mikhail Kudryashov, as described above, Edik E. told Human Rights Watch that he was again detained by Bishkek police. Police officials had kept Edik E.’s passport from the time of his 2010 detention; Edik E. had been too afraid to retrieve it. In May 2012 Bishkek police detained him on the pretext that he was running a company that illegally gained access to computers and computer networks. Edik E. recounted his detention to Human Rights Watch:

I walked out of my house and was shocked when two men got out of a car, grabbed me, and started pushing me into the car. I started screaming. All of my neighbors ran to me. They [the police] said, “You are a hacker. This is the end of you! We will lock you up for life, you won’t have a life.” I kept screaming.

In the car they said, “Finally we got you, faggot!” I asked them why they thought that I was a faggot. They said, “We can see that you sleep with men, your asshole is big.” They said, “We know that you stole \$10,000 from Olga.

⁷⁰ Bishkek City Court sentence of Mikhail Kudryashov, July 26, 2011, on file with Human Rights Watch.

⁷¹ Human Rights Watch interview with Mikhail Kudryashov, Bishkek, August 15, 2012.

⁷² “Kyrgyzstan: Threats against human rights defender Mr. Maxim Bratukhin,” *Frontline Defenders*, June 14, 2011, <http://www.frontlinedefenders.org/node/15188> (accessed January 23, 2013).

She will come and identify you. We will start a criminal case against you. You will confess and nobody will help.”⁷³

Police officers brought Edik E. to the police station and tried to force him to confess to stealing the money. They also tried to pressure him by claiming that they had information about his involvement in computer hacking, including by showing him a company’s website that had his name and passport information. Edik E. told Human Rights Watch:

They knew that I worked in a pet store and asked whether I fuck rats. “Maybe you are a zoophile and also fuck men. We will take you to a medical clinic and measure your asshole to see how many men you slept with,” they said. They kept on humiliating me, but I wrote an explanation note that I don’t know Olga and didn’t steal anything.

They beat me and made me write again but I didn’t. They invited me to eat with them ... but then again would say, “You, stinky fag, we will fuck you in a circle. We will torture you and put a bottle you know where.”

Sometimes they would ask, “Do you like me? Let me fuck you now!” They were six or seven officers, and they all laughed at me. One of them threw his bag at me. Another one hit me in the head with a book. There were two police officers doing this and two [police] students observing them.⁷⁴

Edik E. told Human Rights Watch that police also threatened to disclose his sexual orientation to others, saying, “We will tell your parents.... We will spoil your life if you don’t cooperate with us. We will tell [people] at your [academic] institute and everywhere. You will need to end your own life if you don’t cooperate with us.”⁷⁵

⁷³ Human Rights Watch interview with Edik E., Bishkek, July 28, 2012.

⁷⁴ Ibid.

⁷⁵ Ibid.

Edik E. told Human Rights Watch that the police never told him their names as they are required to do by law or filled out any forms concerning his detention. When Edik E. asked the police to identify themselves, they threatened to beat him “if he did not shut up.”⁷⁶

Police released Edik E. after he told the police that he had since gotten a new passport and the passport information on the website they showed him was out of date, and therefore the police could not link him to this illegal company. Edik E. told Human Rights Watch that he sought legal advice from an NGO after this situation. The NGO’s lawyers told Edik E. that they could take this case but could not guarantee his safety, so he declined to pursue a complaint.⁷⁷

Sebastian S.

In 2011 Bishkek police detained Sebastian S., a gay man in his 20s, on suspicion of theft.⁷⁸ During a search of his bag, police officers found a love letter and identified its author as another man. After finding the letter, the police began to beat Sebastian S. and tried to steal his jewelry, making specific reference to his sexual orientation, and then detained him. He described his ill-treatment during detention to Human Rights Watch:

First they asked, “Are you really gay [in Russian, *goluboi*]?” Then they demanded that I give them my ring. I refused, and they punched me in the chest and under the ribs at least 15 times. There were four of them: two were hitting me and two were watching. Then they detained me and didn’t give me any food for two days, until my parents came. I would tell them that I was hungry and they just ignored me.⁷⁹

The theft charges against Sebastian S. were dropped after his parents paid a bribe.

Sebastian’s boyfriend, Zhenya Zh., told Human Rights Watch that following this incident, Sebastian was traumatized. According to Zhenya Zh., Sebastian S. wanted to “quit his [gay]

⁷⁶ Ibid.

⁷⁷ Ibid.

⁷⁸ Human Rights Watch interview with Sebastian S., Bishkek, August 10, 2012.

⁷⁹ Ibid.

lifestyle” and would “walk a couple of meters behind us [his gay friends], especially when we walk with an effeminate man, in order not to be associated with us.”⁸⁰

Maksim Bratukhin

Maksim Bratukhin, head of the Bishkek-based LGBT rights group Pathfinder, told Human Rights Watch that several police officers detained, beat, and threatened him with death after he left a gay nightclub in Bishkek in April 2008. Bratukhin told Human Rights Watch:

The police said, “Are you a faggot? Why do you come here?” Then they pointed a gun at me and showed their IDs. One of them hit me in the temple and I fell on their car. They threw me in the car and drove around for some time. They said they would drown me in a canal if I didn’t give them \$600. In the car they hit me in the head with the handle of the gun. Then took me to the police station, kicked me some more, and said that they would call my mom and tell her about the kinds of clubs I visit.⁸¹

Bratukhin was able to avoid being a victim of extortion by asking the police to take him to his workplace so he could get the money. Once there, Bratukhin told a colleague that the police had illegally detained him and demanded money from him. The police officers became angry, punched Bratukhin a few more times, and then left.⁸² Bratukhin did not bring a complaint against the police because he thought it would take too long to process and would not bring any results.

Rape, Sexual Violence, and Threats of Rape

Several of the gay and bisexual men interviewed by Human Rights Watch, including one who was a 17 years old at the time of his abuse, said they experienced sexual violence from the police, including rape, group rape, attempts by police to insert a stick, hammer, or electric shock weapon inside the victims’ anus, unwanted touching during a search, or being forced to undress in front of police.⁸³ In two cases documented by Human Rights Watch, police officers are alleged to have disclosed a detainee’s sexual orientation to

⁸⁰ Human Rights Watch interview with Zhenya, Bishkek, August 10, 2012.

⁸¹ Human Rights Watch interview with Maksim Bratukhin, Bishkek, July 31, 2012.

⁸² Ibid.

⁸³ Human Rights Watch interviews with victims, 2012-2013 in four cities in Kyrgyzstan.

other detainees, who then beat or raped the victim.⁸⁴ Several more of the gay and bisexual men Human Rights Watch interviewed, one of whom was 17 years old at the time of abuse, said that police had threatened to rape them, including by means of group rape or rape with a hanger or bottle. LGBT activists interviewed by Human Rights Watch said that sexual assault by the police is one of their biggest fears, both for themselves and for other gay men in the community.⁸⁵

Under article 129 of the Criminal Code of Kyrgyzstan, “rape” can only be a crime in instances where the victim is female.⁸⁶ Article 130 of the code criminalizes other forced sexual conduct, including, “*muzhelozhstvo* (sex between men), lesbianism or other acts of a sexual nature with the use of violence or the threat of its use against a male (or female) victim” with sentences of up to eight years in prison.⁸⁷

Rape, sexual violence, and threats of rape are violations of international law, including the prohibition against torture and inhuman and degrading treatment, under the International Covenant on Civil and Political Rights (ICCPR).⁸⁸ The World Health Organization defines sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic a person’s sexuality, using coercion, threats of harm or physical force, by any person regardless of relationship to the victim, in any setting....”⁸⁹

Sexual violence against men and boys is a highly sensitive issue for many people in Kyrgyzstan. The predominant societal beliefs about men who have been raped have their origins in Kyrgyz, and before that, Soviet, prison culture, where gay men or men who are raped by other men are classified by other inmates as *opushchennie* (“humiliated” or “put down”). These men are considered outcasts and are socially isolated from other

⁸⁴ Human Rights Watch interviews with Demetra July 31, 2012, and Isroil I., February 25, 2013.

⁸⁵ Human Rights Watch interview with Zhenya R., August 10, 2012.

⁸⁶ Criminal Code of Kyrgyzstan, art. 129. The Bishkek-based LGBT NGO Labrys reported unwillingness on the part of police to open an investigation in a case of rape of a transgender woman. Police told the NGO that someone whose gender marker is “male” cannot be raped, and they refused to register the case. LGBT organization Labrys and Sexual Rights Initiative submission to the UN Human Rights Council, May 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session8/KG/JS1_UPR_KGZ_So8_2010_JointSubmission1.pdf (accessed January 10, 2013).

⁸⁷ Criminal Code of Kyrgyzstan, art.130.

⁸⁸ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, art. 7. <http://www.refworld.org/docid/3ae6b3aa0.html>. (accessed 19 December 2013).

⁸⁹ World Health Organization, “Guidelines for medico-legal care for victims of sexual violence,” 2003, <http://whqlibdoc.who.int/publications/2004/924154628X.pdf> (accessed February 12, 2013).

male prisoners.⁹⁰ Other inmates refuse to shake hands with *opushchennie* or let them eat at the same table; often, *opushchennie* are forced to live in barracks separate from other prisoners.⁹¹

This strong cultural stigma contributes to difficulties in investigating sexual assault against gay and bisexual men in Kyrgyzstan today. Allegations by detainees of rape or sexual violence by the police are not taken seriously because it is taboo to even suggest that a police officer would have any kind of sexual contact with another man. In an interview with Human Rights Watch, a Ministry of Internal Affairs official stated, “In the criminal world there are rules about not shaking hands with men who were ‘put down.’ Police officers maintain [those rules], too.”⁹²

Rape and Attempted Rape

Demetra D.

Demetra D., 32, from Bishkek, told Human Rights Watch that in four different incidents between 2004 and 2011, police officers raped him, attempted to rape him, and allowed other detainees to rape him while in police custody.⁹³ In 2004, men who later identified themselves as police officers grabbed Demetra D. and his friend as they left a gay club, forced them into an unmarked car, drove them to the city outskirts, and beat and raped them.⁹⁴ Demetra D. described the rape to Human Rights Watch:

We didn’t know our rights. We were really scared. They took their batons, beat us, and then told us that they would fuck us with the batons. They didn’t want to listen to our pleas. They said that we are fags and deserve this, and that we don’t deserve to be on earth. After they raped us, they left us there. We had to walk back [to Bishkek].⁹⁵

⁹⁰ This phenomenon persists in prisons in many other post-Soviet states as well. Alisher Latypov, “Prohibition, stigma and violence against men who have sex with men: Effects on HIV in Central Asia,” *Central Asian Survey*, vol. 32 (2013).

⁹¹ Ibid.

⁹² Human Rights Watch interview with Ministry of Interior official (name withheld for security reasons), November 6, 2012.

⁹³ Human Rights Watch interview with Demetra D., Bishkek, July 31, 2012.

⁹⁴ Ibid.

⁹⁵ Ibid.

In 2009 as Demetra D. exited a Bishkek gay club with another gay man, both dressed in women's clothing, police officers forced them into a police car and took them to a district police station where Demetra D. was raped by other detainees. Demetra D. recounted:

The officers showed their police IDs. They told us that we are in a Muslim country and it is not okay to wear women's clothes. When we arrived [at the station] they put us in the same cell with straight inmates and said, "Here! We got them for you! Enjoy yourselves!" I was forced to have sex with two inmates. When you are in this kind of situation, you can't just refuse or talk about your rights. You just want to get out of there alive.⁹⁶

Following this rape, Demetra D. told a police investigator at the same station what happened and wrote a complaint, but he never received a response. The experience left Demetra D. feeling that it was hopeless to complain about the abuse. "After this I just think, 'so what—why would I go [complain]?' I am just glad I stayed alive through all this," he told Human Rights Watch.⁹⁷

In yet another incident in 2011, two police officers stopped Demetra D. on a Bishkek street shortly after he left a cafe and took him to a police station. Demetra D. asked a duty officer why he had been detained and stated that the police had no right to hold him. The duty officer hit Demetra D. and took him to another room where police officers forced him to perform oral sex on them. Demetra D. told Human Rights Watch:

Two policemen came in. They said, "You, fag, you will now suck our dicks." I said, "I am not going to do that." I said, "You are violating my rights." They said, "No, here we decide who knows their rights and who doesn't."

One of them pushed me to my knees; another one took his penis out and started forcing it in my mouth. One officer was holding me from behind and really hurting my arms so that I would bend more. So I did it. Then he let my

⁹⁶ Ibid.

⁹⁷ Ibid.

hands go, and took his pants off. They also said that they would also fuck me in the ass.⁹⁸

Demetra D. then managed to speak to another police officer and state that he had been arbitrarily detained and was let go. He did not tell the officer about the sexual violence he experienced.⁹⁹

The Rape and Torture of Demetra D. and Vitalii V.

On August 28, 2008, Demetra D. and his friend Vitalii V. were detained by police on suspicion of theft. Demetra D. and Vitalii V. told Human Rights Watch that police learned about their sexual orientation from the person who had reported Vitalii V. for theft. Police raped and beat Demetra D. and Vitalii V. while they were held in detention for three days. Demetra D. described the first rape to Human Rights Watch:

They made us [me and Vitalii V.] kiss each other [on the mouth] and then also in intimate places. Told us to suck each [others' penises]... [T]hey [also] took the handle of a hammer and took turns putting it in my and my friend's [Vitalii V.'s] anus. They also said, "You have a whole night and day [of abuse] waiting for you."¹⁰⁰

Demetra D. told Human Rights Watch that while they remained in this police station, over 12 police officers came in and out of the room to rape, punch, kick, and humiliate him and Vitalii V. He recalled:

They tied my hands and knees, put me on my stomach. People without uniforms walked in, and anyone who wanted to put whatever they had in their hands [inside of] my anus. Then they would turn me on my back and beat me with batons.

They did not stop there. They took an electric shock weapon and put it near my anus. They didn't stick it inside but would put it next to my anus and

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

shock me. My mouth was gagged. And this kept on going until the evening. They would call their acquaintances and ask, “Do you want to see some fags?”

I kept telling them that I have a weak heart and allergies. I told them that my family would look for me no matter what. I thought I would die there. I heard my friend [Vitalii V.] screaming from another room. I think he confessed [to the theft] and they took him away. This is when it stopped.¹⁰¹

Two days later, Demetra D. and Vitalii V. were transferred to a police station in the district of Bishkek where the alleged crime occurred. Police officers tortured them further. Demetra D. described the treatment to Human Rights Watch:

They poured cold water on us, and it started again. We were in the hall. They told us to stand on one foot for two hours. It was intolerable to do this for hours. You just fall down. You can’t stand anymore. They wouldn’t let me lie on the floor. They beat me with a stick to make me stand up again. I fell and had an outburst. I said, “Do whatever you want to me! I can’t do this anymore! I don’t care.” They let us get dressed and put us in a cell.¹⁰²

Vitalii V. told Human Rights Watch that at that same time, police tried to rape him and subjected him to other forms of ill-treatment.¹⁰³ He told Human Rights Watch:

An officer took a baton out of the drawer, put a condom on it and tried to do something [rape me with it] but it didn’t work.... [The officers] put a plastic bag on my head, handcuffed me, and put a chair [on me] so that I wouldn’t move. This suffocated me, and I fainted. They took the bag off, slapped my face, and then when I gained consciousness, they put the plastic bag back on. It continued like this all day long. In the evening they started beating me with a chess set box.... I was lying under a chair, handcuffed. They took my underwear and pants off, poured water on me, and started to use [an] electric shock weapon on me [my anus].¹⁰⁴

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Human Rights Watch interview with Vitalii, Bishkek, August 16, 2012.

¹⁰⁴ Ibid.

Throughout three days of detention, police officers denied Vitalii V. access to food and water.¹⁰⁵ When asked whether he thought of reporting the torture and ill-treatment, Vitalii V. responded, “I am just scared. I did think about it, but I am sure that they would kill me if I reported [what they did to me]. I am scared.”¹⁰⁶

Vitalii V. remained in detention and was later convicted of theft and served two years in prison. Demetra D. was released after three days after police did not find evidence linking him to the alleged theft. Demetra D. told Human Rights Watch that the investigator who released him asked whether or not he and Vitalii V. were beaten. Demetra D. did not complain and explained why to Human Rights Watch:

The police really threatened us, saying, “If you complain, we will find you and it will be even worse.” I was so hurt. I could hardly walk, and it hurt all over. And if I decided to go and have my bruises examined, [I was afraid the doctors would find nothing]. The bruises were really small [this time]. They [the police] are professional in beating, they don’t leave marks.¹⁰⁷

Demetra D. suffered multiple injuries as a result of the multiple instances of torture and ill-treatment. He had his nose broken twice, and at the time of the 2012 interview with Human Rights Watch, complained of continuing problems with his kidneys as a result of the beatings.¹⁰⁸ Demetra D. did not report these incidents because the police threatened him with further abuse if he were to tell anyone.¹⁰⁹

Oleg O.

Oleg O., a gay man from Bishkek, told Human Rights Watch that a male relative, a high ranking police officer, arranged for his detention in December 2010 in order to punish him for being gay and living with his male partner. Police detained Oleg O., then 17, as he tried to escape from this relative, who was forcing Oleg O. into his family’s house against his will.¹¹⁰ Oleg O. told Human Rights Watch that the police officers used a portable electric

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

¹⁰⁷ Human Rights Watch interview with Demetra, Bishkek, July 31, 2012.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Human Rights Watch interview with Oleg, Bishkek, August 14, 2012.

shock weapon to stun him, dragged him into their car, and took him to a police station.¹¹¹ Oleg O. described the rape and torture police subjected him to there:

Two officers brutalized me for an hour and a half, then raped me, and locked me in a disciplinary cell. I am claustrophobic, and they locked me for two and a half days in the disciplinary cell. It was maybe 1.5 meters by one meter, and maybe four meters high and dark. Only once did they let me out to use the bathroom. They gave me no water or food, and I fainted.¹¹²

Two days later, officers pulled Oleg O. out of the cell, kicked him, and told him to leave.¹¹³ Police officers did not check Oleg O.'s documents and were not aware of his age.

Oleg O. told Human Rights Watch that he considered filing a complaint about the ill-treatment and consulted a lawyer about what happened to him, but according to Oleg O., the lawyer was reluctant to help him. This reaction dissuaded Oleg O. from registering an official complaint.¹¹⁴

Threats of Rape

Several of the gay and bisexual men Human Rights Watch interviewed said that police threatened to rape them, including group rape or rape with a coat hanger or bottle. Rape threats were used to scare and intimidate victims into revealing their sexual orientation, confessing to crimes that they had not committed, or to pressure them to give money to the police. Threats of rape typically occurred in the context of beating, sexual humiliation, and other ill-treatment.

Igor Kusakov

In February 2013 Igor Kusakov, 45, an outreach worker at the Bishkek-based Anti-Aids Association, received a call from a man responding to a personal advertisement he had recently placed in a Bishkek newspaper. The men agreed to meet for a date, but when

¹¹¹ Ibid.

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Ibid.

Kusakov arrived, the young man showed him a police ID and grabbed him by the hand.¹¹⁵ Kusakov told Human Rights Watch how the police humiliated and threatened him with rape:

This officer was upset about my ad. He started grabbing my phone. Another police officer came and they put me in their car and took me to a police station. The first officer kept saying, “Oh, you are fag, do you sleep with men? Fags like you should be in jail so that you’d be raped there.”¹¹⁶

The police officer who first contacted Kusakov harassed him, falsely accusing him of advertising sexual services for money. Kusakov told Human Rights Watch that he spent two hours in the police station while his colleagues negotiated with the police for his eventual release.¹¹⁷ Kusakov did not make a complaint about this incident.¹¹⁸

Lyosha L.

Lyosha L., a gay activist from the Chui region in northern Kyrgyzstan, told Human Rights Watch that police stopped him and a friend on July 30, 2012, supposedly to check their documents, as they were about to get into a taxi to go to a birthday party. Police immediately detained the two men and took them to a police station, allegedly because the men were “kissing in public.” During the 30-minute detention, police threatened Lyosha L. and his friend with rape and humiliated them. At the police station, police officers asked Lyosha L. and his friend about which of them preferred being on top or on bottom during sex and repeatedly called them fags (in Russian, *gomiki*). They also threatened to put Lyosha L. in a cell with one of the police officers who likes men “just like you” so that the officer could rape him.¹¹⁹ Lyosha L. and his friend paid 2,000 soms (\$41) to the police in order to be released.¹²⁰ Lyosha L. did not make a complaint about the incident, fearing retaliation.¹²¹

¹¹⁵ Human Rights Watch interview with Igor Kusakov, Bishkek, March, 1 2013.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Ibid.

¹¹⁹ Human Rights Watch interview with Lyosha, August 10, 2012.

¹²⁰ Ibid.

¹²¹ Ibid.

Targeting of Gay Men for Extortion Without Violence

Gay and bisexual men in Osh, Bishkek, and Kara-Balta told Human Rights Watch that the police stopped them in public places in order to extort money from them. The amounts extorted or demanded ranged from US\$12 to \$10,000. The highest amount that any of the men interviewed by Human Rights Watch paid was \$1,000. In contrast to many of the cases described in previous sections, the cases described below did not involve police use of violence or threats of violence in order to extort money. In none of the cases described in this report did victims file complaints about extortion to the police, typically out of fear of retaliation or disclosure of their sexual orientation, as described below.

The gay men and boys whose cases are documented in this section told Human Rights Watch that the police stopped or detained them under different pretexts, such as identity checks, spurious allegations of criminal activity, including false allegations of criminal homosexual activity, or through information obtained about them from gay acquaintance(s) forced to share their personal contacts while under police pressure and threats. In some cases, police targeted public places they knew or believed gay men to spend time.

Kyrgyz law defines extortion as “demanding to pass other people’s property or property rights or committing other actions related to property under threat of violence ... or under threat of disseminating information that would disgrace the victim or his/her relatives, or other information which could cause substantial harm to rights or lawful interests of the victim and his/her relatives.”¹²²

Targeting Gay Men for Extortion in Parks and Other Public Spaces

In August 2008, three police stopped Danik Kasmamytov, then 17 years old, in one of Bishkek’s parks, where he was found hugging his male partner. Kasmamytov told Human Rights Watch:

The police asked, “Are you taking drugs or what?” We said, “No, of course not, we are just friends.” They told us friends do not hug and we got into an

¹²² Criminal Procedure Code of the Kyrgyz Republic, art. 170. Extortion is punishable by up to three years of corrective labor or two year imprisonment. Group extortion based on a preliminary agreement or use of violence can carry up to five years’ imprisonment. Article 313 includes specific penalties for extortion by state officials.

argument. Then they told us the park is a public place and said you shouldn't show any kind of emotion there. We told them there were many couples walking around, and they responded, "But they are guys and girls, not two guys." They asked us for money.¹²³

Kasmamytov told Human Rights Watch that the police officers asked him a lot of intimate questions and told him that he was "dishonoring the [Kyrgyz] nation" because of his sexual orientation. The police forced Kasmamytov and his boyfriend to write a note disclosing their sexual orientation and personal details. Kasmamytov told Human Rights Watch:

We were told what to write. I was still "closeted," and it was the first note of this kind [I'd written] in my life. I was trembling. Everything ended when my boyfriend gave them money. He didn't have much money on him and didn't want to go home [to get more].... He called his friend and the friend agreed to bring the money.¹²⁴

Kasmamytov told Human Rights Watch that he was so scared after the incident that he stopped seeing his boyfriend. He said ever since the incident he avoids showing any affection in public spaces.¹²⁵ Kasmamytov did not report the incident fearing disclosure of his sexual orientation and retaliation¹²⁶.

Another gay man, Alisher A., told Human Rights Watch that police stopped him and six other gay men in a park in Bishkek in late May 2012. He said police had apparently overheard the men's conversations in which they referred to each other as women. Alisher A. described how police held them in the park and extorted money from them:

I heard one of the seven police officers say, "Oh, we got these *golubki* [a way to refer to gay men in a derogatory manner]. None of them [identified themselves]. They said that we were violating public order. They separated us from each other, two in each group. One of the police officers searched

¹²³ Human Rights Watch interview with Danik Kasmamytov, Bishkek, August 10, 2012.

¹²⁴ Ibid.

¹²⁵ Ibid.

¹²⁶ Ibid.

me and touched me in an inappropriate way. It was unpleasant for me but I stayed silent.¹²⁷

Alisher A. told Human Rights Watch that he didn't give any money to the police officers but that his friends who were searched in another group gave the officers money. Police then let Alisher A. and the others go.¹²⁸

Police detained Samat S., then 21, and his boyfriend, as they were kissing in a car at night in Bishkek in the spring of 2009. Samat S. told Human Rights Watch that he had to give all the money he had on him: 600 soms (\$15) and his phone to the police officers who threatened to open a case against them if they did not pay. The men were not taken to a police station. The next day, Samat S. met one of the officers to get his phone back in exchange for more money.¹²⁹

Targeting Gay Men at Hotels and Private Apartments

Activists told Human Rights Watch that police officers often monitor private apartments and hotel rooms that gay men use to meet each other. For example, Bahodyr B., 45, told Human Rights Watch that police came to his hotel room at 3 a.m. one night in 2012 when he was sleeping with his male lover. His lover was scared and told police that Bahodyr B. forced him to have sex.¹³⁰ Bahodyr B. said he gave 4,000 soms (\$84) to the police, who had threatened to initiate a criminal investigation based on the allegations.

A gay couple, both 24, told Human Rights Watch that they were detained by the police in Bishkek on the way to a rental apartment at 10 p.m. during the summer of 2012.¹³¹ Police stopped the couple near the building's elevator and asked why they were going into the apartment without any women. Police took both men to the police station allegedly to confirm their identities. The couple told Human Rights Watch that they were released after they questioned the police officers' motives for detaining them. They said the police pressured them into giving them their parents' contact information, but they refused.¹³²

¹²⁷ Human Rights Watch interview with Alisher A., Bishkek, August 9, 2012.

¹²⁸ Ibid.

¹²⁹ Human Rights Watch interview with Samat S., Moscow, November 9, 2012.

¹³⁰ Human Rights Watch interview with Bahodyr B., October 22, 2012.

¹³¹ Human Rights Watch interview with Samat S. and David, Bishkek, August 7, 2012.

¹³² Ibid.

The police let them go after the couple, who had a good understanding of the law, argued that the police had no right to detain them. The gay couple did not make a complaint about this incident for fear of disclosure¹³³.

Threat of False Criminal Charges for Extortion

Igor Kusakov, 45, told Human Rights Watch that in 2008 Bishkek police took him into custody to question him as a witness in a case involving the murder of another gay man. Igor is openly gay and disclosed his sexual orientation to the police. The police took Kusakov's mobile phone and asked him detailed information about his male contacts. The police asked about one contact, Artyom A., whom Kusakov explained was a medical professional. They also asked Kusakov to help them identify other wealthy gay men.¹³⁴

Artyom A. told Human Rights Watch that the same evening that Kusakov had been in police custody, two policemen approached him near his place of work, took him to a police station, and demanded that he pay them \$1,000, or they would disclose his sexual orientation.¹³⁵ Artyom A. paid the police the \$1,000 and left the police station.

Another gay man, Tohir T., a 34-year-old ethnic Uzbek, told Human Rights Watch that he experienced threats and extortion by the police in July 2012 following a complaint made by his former lover. The day after an altercation between the man and Tohir T. at Tohir T.'s house, the police called him on the phone, claiming that his lover had filed a complaint about "being seduced." Tohir T. said that the police demanded that he pay them 20,000 soms (\$425), or they would kill his family and disclose his sexual orientation to his neighbors. A police officer eventually came to Tohir T.'s house, took 3,000 soms (\$65), and punched him in the chest three times. As a result of this abuse, Tohir T. continued to feel pain, but he did not dare to go to the doctor out of fear that his wife would find out about the situation.¹³⁶

In another case, Azamat A., who lives in southern Kyrgyzstan, told Human Rights Watch that in July 2008, two uniformed law enforcement officers came to his home with a written

¹³³ Ibid.

¹³⁴ Human Rights Watch interview with Igor Kusakov, Bishkek, November 5, 2012.

¹³⁵ Human Rights Watch interview with Artyom A., Bishkek, November 7, 2012.

¹³⁶ Human Rights Watch interview with Tohir and three other men, August 3, 2012.

complaint from a man alleging that Azamat A. had forced him to have sex. The officers demanded \$10,000 in order to not initiate a criminal investigation. Azamat A. had met the accuser online and spent time with him but did not have sex with him. Ultimately, the police did not press charges after Azamat A. threatened to take them to court.¹³⁷

In 2006 Murat M., a 32-year-old NGO outreach worker, was walking with a gay friend on a street of a town in southern Kyrgyzstan when police stopped them, saying that a third man who was with the police at the time claimed he had had sex with Murat M.'s friend in a park. According to Murat M., his friend subsequently had to pay the police \$400 to avoid detention on possible charges of forced sodomy.¹³⁸

¹³⁷ Human Rights Watch interview with Azamat A., October 23, 2012.

¹³⁸ Human Rights Watch interview with Murat M., August 4, 2012.

III. Government Responses

In recent years, particularly since the visit by United Nations Special Rapporteur on Torture Juan Mendez to Kyrgyzstan in 2011 and his February 2012 report on the visit, the government has taken steps to acknowledge and to begin to address police violence, including torture and ill-treatment. The government proposed amendments to the criminal code that brought the Kyrgyzstan legal definition of torture closer in line with the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment definition.¹³⁹ The government also created a national preventative mechanism on torture, in line with obligations under the CAT and its optional protocol, and the Ministry of Interior issued a decree citing the need for police reform to improve effectiveness and public trust.

While the government is engaged in police reform efforts promoted by international organizations and domestic nongovernmental organizations (NGOs), there remains a climate of general impunity for police violence due to ineffective complaint mechanisms, fear of retaliation by police officials against victims who complain about abuse, and ineffective investigations.

Impunity is a particularly serious problem when it comes to police abuse of LGBT people. Out of forty gay and bisexual men interviewed about police abuse by Human Rights Watch, only two reported the abuse to the police or the general prosecutor's office. In only one case, that of Mikhail Kudryashov, did the prosecutor's office conduct an initial inquiry, but it later refused to conduct a criminal investigation.

¹³⁹ UN Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan, CAT/C/KGZ/CO/2, December 20, 2013, para. 10: "While welcoming the recent amendment in the Criminal Code on the definition of torture, the Committee regrets that the current definition of torture in article 305(1) of the Criminal Code limits criminal responsibility to public officials, excluding other persons acting in an official capacity. Furthermore, the Committee regrets that the specific offence of torture is not punishable by appropriate penalties, as required by the Convention. The Committee is also concerned that the statute of limitations applicable to the offence of torture under domestic law may prevent investigation, prosecution and punishment of these non-derogable crimes (arts.1, 2 and 4).

The State party should continue its efforts to bring its domestic law in accordance with the Convention, inter alia, by ensuring that a definition of torture in article 305(1) of the Criminal Code covers all the elements contained in article 1 of the Convention and that acts of torture are punishable by appropriate penalties commensurate with the gravity of the offence, as set out in article 4(2) of the Convention. Furthermore, the State party should ensure that the prohibition against torture is absolute and that there is no statute of limitations for acts of torture."

Under Kyrgyz and international law, the authorities are obligated to conduct prompt, thorough, and impartial investigations into all allegations of abuse, including torture, ill-treatment, threats, and extortion by the police. The prosecutor's office is obliged by law to investigate allegations of torture that it became aware of through victims filing a formal complaint, or if they confirm through other means that a crime has occurred.¹⁴⁰ As part of this, victims must be protected from further repercussions or potential harm, such as the harm they might suffer should their sexual orientation be made public. The CAT's General Comment No. 3 calls on states to ensure that victims who have suffered "violence or trauma" receive adequate care and protection throughout the investigation process.¹⁴¹

Inadequate Police Complaint Mechanisms

Existing police complaint mechanisms are inadequate. In his 2012 report, the special rapporteur on torture noted that "there is not enough public awareness about the existing complaint mechanisms or confidence in their protective role."¹⁴²

A victim of alleged ill-treatment or torture can file a complaint with any law enforcement body, which, in turn, will refer the complaint to the prosecutor's office, which oversees investigations involving allegations of torture or ill-treatment committed by the police. People may also petition the prosecutor's office directly. The complaint must include personal information of the alleged victim including his or her name and address. Upon receipt of the complaint, the prosecutor's office initiates a preliminary inquiry. Within three days, on the basis of the results of the inquiry, the prosecutor's office will decide whether to open a criminal investigation.¹⁴³ There is an internal affairs department within the police force that has an ambiguous mandate to protect the rights of police officers and take disciplinary measures in case police officers commit various abuses. There is no independent police complaints commission, which makes it difficult to investigate police abuse.

¹⁴⁰ Human Rights Watch email correspondence with Asel Koilubaeva, Voice of Freedom, November 29, 2013. Criminal Procedure Code of the Kyrgyz Republic, art. 150.

¹⁴¹ UN Committee against Torture, General Comment No. 3 of the Committee against Torture, CAT/C/GC/3, November 19, 2012, http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf (accessed October 15, 2013).

¹⁴² UN Commission on Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Visit to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 17, 2013).

¹⁴³ Voice of Freedom complaint mechanism description on file with Human Rights Watch.

While only the prosecutor's office is authorized to investigate allegations of torture, ill-treatment, or crimes committed under "exceeding authority" provisions, prosecutors and investigators depend on Ministry of Interior staff to provide investigative support.¹⁴⁴ The special rapporteur on torture notes in his 2012 report that, although prosecutors have formal investigative functions over these types of cases, "they lack real investigatory powers, depend on the police to conduct searches and seizures and do not have their own operative groups or criminologists."¹⁴⁵ Under this system, the police are very frequently involved in investigating torture allegedly perpetrated by their own officials,¹⁴⁶ leading to a high likelihood that alleged perpetrators will know that a complaint has been filed against them and by whom it was filed. This conflict of interest seriously limits the effectiveness and integrity of investigations.

The lack of effective mechanisms to guarantee confidentiality or protection from retaliation is a particularly serious obstacle when it comes to investigating police abuse of gay and bisexual men. Our research found that most gay and bisexual men do not report police abuse and extortion, fearing retaliation and police disclosure of individuals' sexual orientation to family members and employers.

There is no mechanism to ensure confidentiality of investigations or to limit the number of officials involved in investigating a case of police abuse. There are mechanisms, however, to ensure confidentiality during criminal proceedings in court. Under current legislation, such mechanisms can be used in trials related to sexual violence¹⁴⁷ and crimes that involve state security issues.¹⁴⁸ Article 22 of the Kyrgyzstan Criminal Procedure Code also permits holding closed court hearings in cases when the "security of the victim, witnesses or other people who participate in the court hearing" is at stake.¹⁴⁹

¹⁴⁴ Human Rights Watch email correspondence with Asel Koilubayeva, Voice of Freedom, September 19, 2013.

¹⁴⁵ UN Human Rights Council. Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 18, 2013), p. 8.

¹⁴⁶ Voice of Freedom. "Safeguards Against Torture in Kyrgyz Republic." Bishkek: Freedom House Kyrgyzstan, October 2012. <http://freedomhouse.kg/en/reports/157-garantii-zashchity-ot-pytok-v-kyrgyzstane> (accessed September 16, 2013).

¹⁴⁷ Kyrgyzstan Code of Criminal Procedure, art. 22.2.

¹⁴⁸ *Ibid*, art. 22.1.

¹⁴⁹ *Ibid*, art. 22.2.

Most of the gay men interviewed for this report told Human Rights Watch that they were reluctant to file a complaint out of fear of retaliation on the part of police. Edik E., a shopkeeper in his 20s whom Bishkek police beat and threatened with rape in 2010, as described in detail above, was afraid to press charges against his perpetrators, telling Human Rights Watch about his fears of further violence:

If [the police] detain us like this, without any sanctions, what are we to think? If we go after them or initiate an investigation, they will simply get angry. They will kill us.¹⁵⁰

Several other victims of abuse interviewed by Human Rights Watch expressed similar fears and reluctance to file complaints, as described above.

Even LGBT activists, many of whom speak publicly on gay rights issues, and some of whom are openly gay, told Human Rights Watch that they are unwilling to report police abuse out of fear for their safety. For example, Adyl A., a transgender activist in Bishkek, told Human Rights Watch that two police officers stopped him and a colleague in 2010 as they left work, detained them for a few hours, humiliated them by asking, “Are you fags or what?” and threatened them with death, saying, “These beasts should be killed.”¹⁵¹ Only after Adyl A.’s colleagues, who are well-known human rights defenders in Kyrgyzstan, intervened did the police release the men.

Activists encouraged Adyl A. to file a complaint about the arbitrary detention, humiliation, and threats he had experienced, but both Adyl A. and his colleague feared public disclosure of their gender identity and were not confident that their complaints would be fairly investigated because of their gender identity.¹⁵² Adyl A. told Human Rights Watch:

After this incident, I became a coward.... I myself am a human rights defender and I know my rights, but one thing is knowing, and another is when you encounter this and you see how they treat you. The police officers

¹⁵⁰ Human Rights Watch interview with Edik E., Bishkek, July 28, 2012.

¹⁵¹ Human Rights Watch interview with Adyl A., Bishkek, August 3, 2012.

¹⁵² Ibid.

feel their impunity, and that they will be covered since, [as the saying goes],
“A crow doesn’t bite another crow.”¹⁵³

In March 2012 the Bishkek-based LGBT rights group Labrys sent a letter to the Ministry of Internal Affairs with detailed descriptions of 14 cases of abuse of LGBT people, including eight cases of entrapment and extortion through dating website advertisements. In its written response in May 2012, the general prosecutor’s office responded that they were unable to investigate any of these cases because the victims did not identify themselves, as is required under Kyrgyz law.¹⁵⁴ None of the victims were willing to make official complaints due to fears of police and disclosure of their sexual orientation to family members or employers.¹⁵⁵

This understandable reluctance underscores the need for the authorities to take positive steps to broaden the routes through which complaints can be transmitted, discussed in more detail below.

Human Rights Watch interviewed three Ministry of Internal Affairs officials in November 2012, all of whom confirmed that the fears expressed by gay men, lesbians, and bisexual and transgender people are well founded and that their ministry cannot protect any victims of abuse, including gay and bisexual men, during investigations and trials.¹⁵⁶ Referring specifically to gay men, an official told Human Rights Watch,

If they [gay men] weren’t scared of public disclosure [of their sexual orientation], then they wouldn’t be afraid of the police officer, no matter how hard he tried [to scare them]. If they want justice, they should go all the way.... [But] nobody will provide them [the victims] with bodyguards. At least a certain circle of people will know about them [and their sexual orientation] during the investigation.¹⁵⁷

¹⁵³ Ibid.

¹⁵⁴ Letter from prosecutor of Bishkek, Oktyabrskiy District, May 7, 2012, on file with Human Rights Watch.

¹⁵⁵ Human Rights Watch interviews with Labrys staff, Bishkek, August and October 2012.

¹⁵⁶ Human Rights Watch interviews with Ministry of Interior officials, Bishkek, November 2012.

¹⁵⁷ Ibid.

Lack of Investigations

In the rare instances that gay men file complaints about police abuse, investigations are not opened, or are ineffective. Human Rights Watch is not aware of any police officers being charged, let alone tried or convicted, for the types of abuses against gay men described in this report.

There is a general climate of impunity in Kyrgyzstan for crimes committed by police officers and law enforcement agents. Despite the prohibition of torture under Kyrgyz law, authorities often decline to open investigations into allegations of torture, and even on rare occasions when an investigation is carried out, the perfunctory manner of the investigation and delays mean that perpetrators are unlikely to be held to account.¹⁵⁸

Official statistics indicate that in 2012, among 371 official complaints regarding torture by law enforcement officials, only 11 police officers were convicted.¹⁵⁹

Various UN human rights bodies, including the UN special rapporteur on torture and the CAT have criticized Kyrgyzstan for not addressing its “widespread use of torture,” including due to a lack of effective investigations.¹⁶⁰ The special rapporteur specifically stated in his 2012 report on Kyrgyzstan that, with regard to investigations into police torture, “in most cases, if any inquiries are held, preliminary inquiry usually concludes that the allegations of torture and ill-treatment have not been substantiated and do not merit a full-scale investigation.”¹⁶¹

In Mikhail Kudryashov’s case, described in detail above, the Bishkek prosecutor’s office conducted an internal inquiry but refused to open a criminal investigation following Kudryashov’s original complaint. Kudryashov appealed this decision to the general

¹⁵⁸ An example of this kind of investigation is the criminal case against four police officers following the August 2011 death of an ethnic Uzbek detained on charges related to an incident in June 2010. Usmonjon Kholmirzaev died several days after his release without charge, apparently from injuries he sustained from beatings by police while in custody. The case has been subjected to repeated delays over the last two years, and to date, no one has been held accountable for his death. See: “Kyrgyzstan: A Death Follows Police Torture,” Human Rights Watch news release, August 11, 2011, <http://www.hrw.org/news/2011/08/11/kyrgyzstan-death-follows-police-torture>.

¹⁵⁹ Human Rights Watch email correspondence with Asel Koilubayeva, Voice of Freedom, April 10, 2013.

¹⁶⁰ UN Commission on Human Rights, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Visit to Kyrgyzstan, A/HRC/19/61/Add.2, February 21, 2012, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-61-Add2_en.pdf (accessed December 17, 2013).

¹⁶¹ Ibid.

prosecutor's office, which issued an official request for further consideration of the case. However, Bishkek prosecutors again declined to open a criminal investigation.¹⁶² As noted above, Kudryashov was unsuccessful in appealing the refusal to open a criminal investigation. His appeals cited the prosecutor's refusal to consider medical evidence that Kudryashov had suffered a concussion and other serious injuries.¹⁶³

Demetra D., a gay man from Bishkek whose case is described above, also filed a complaint of an instance in which he was sexually assaulted at a police station in 2009. In response, however, he never received any information from police or prosecutors, including about whether an investigation had been opened or not.¹⁶⁴

Asel Koilubayeva, a lawyer from Voice of Freedom (*Golos Svobody*), a leading human rights NGO in Kyrgyzstan, confirmed that LGBT people are vulnerable to police abuse and more reluctant to report ill-treatment. NGOs can also face societal pressure to not participate in cases involving LGBT victims or to not show support for LGBT rights. Koilubayeva told Human Rights Watch:

We talk about torture issues more openly now after the special rapporteur's visit. There are more complaints filed [about torture]. [But] LGBT people are more vulnerable and rarely file complaints because not only the government, but also people, society, do not accept them.... There are no measures enacted by the government to better protect them. When organizations try to talk about LGBT people and their rights, it is seen as showing off. There is an opinion in society that LGBT people should just keep quiet and nobody will touch them then. LGBT people don't write complaints, but without complaints there won't be any results.¹⁶⁵

Deeply homophobic attitudes among police, including among senior Ministry of Internal Affairs officials, contribute to the lack of effective investigations and a lack of willingness to confront the problem of police violence against gay and bisexual men. One official at the Ministry of Internal Affairs interviewed by Human Rights Watch denied that it would

¹⁶² Legal documents on file with Human Rights Watch.

¹⁶³ Complaint and other documents on file with Human Rights Watch.

¹⁶⁴ Human Rights Watch interview with Demetra D., Bishkek, July 31, 2012.

¹⁶⁵ Human Rights Watch Interview with Asel Koilubayeva, lawyer, Voice of Freedom, February 22, 2013.

even be possible for a police officer to commit sexual violence against gay men, referring to strong social stigma surrounding homosexuality. He stated:

It is not acceptable [for anyone] to shake hands with gay men. A police officer wouldn't give his hand to a gay man. They [police officers] wouldn't detain gay men or force them [to do anything] because they are disgusted. How could a police officer rape a gay man?¹⁶⁶

Steps to Address Police Torture and Ill-Treatment

Following the visit and subsequent report of the UN special rapporteur Juan Mendez, Kyrgyzstan revised its legislation to strive to adhere to the international definition of torture, and it established a national preventative mechanism in June 2012 called the National Center of the Kyrgyz Republic on Prevention of Torture and Other Cruel, Inhumane and Degrading Treatment. The center, which is not yet functioning, enshrined nondiscrimination into its operating guidelines, and by law, the center's staff must include representation of different minority groups and not consist of more than 70 percent of people of one gender.

Once it is up and running, the National Center for Prevention of Torture will have the authority to conduct unannounced visits to places of detention, file complaints with state agencies about possible ill-treatment of people in detention based on the results of their inspections, cooperate with NGOs to prevent and address torture, propose legislative changes, and organize educational events.¹⁶⁷ The center is not authorized to receive complaints of police abuse from people not in detention.

In April 2013 the Ministry of Internal Affairs issued decree No. 220, "On Measures to Reform Law Enforcement Bodies of Kyrgyz Republic," which lists human rights violations, corruption, disciplinary infractions, disrespectful and rude treatment of citizens, and low levels of professionalism as the underlying causes of a lack of public trust in the police.

¹⁶⁶ Human Rights Watch interviews with Ministry of Interior officials, November 2012.

¹⁶⁷ Law on the National Center for the Prevention of Torture, approved by the Kyrgyz parliament on June 7, 2012.

This decree calls for a number of improvements, including improved cooperation with civil society, mechanisms for public oversight and assessment of law enforcement bodies, and effective mechanisms to guarantee law enforcement bodies' strict adherence to professional ethics and human rights norms. The decree, however, does not specify torture and ill-treatment as central concerns requiring law enforcement reform or specific measures to prevent and remedy torture and ill-treatment.¹⁶⁸ Furthermore, the decree has yet to be implemented.

Both steps are too new to assess their potential effectiveness in addressing ill-treatment and torture.

¹⁶⁸ Ministry of Internal Affairs, Decree No. 220, April 2013, on file with Human Rights Watch.

International Legal Standards

Kyrgyzstan has ratified the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment, both of which require states to prohibit and prevent torture and other cruel, inhuman, or degrading treatment or punishment, including by law enforcement agencies.¹⁶⁹ The ban against torture is one of the most fundamental prohibitions in international human rights law. Rape carried out by public officials is a form of torture.¹⁷⁰ Many of the forms of ill-treatment described in this report, including severe and prolonged beatings, threats of rape, death threats, and denial of food and water to detainees for extended periods, are acts that can constitute torture.

International law, in addition to prohibiting torture, obliges states to prevent, investigate, prosecute, and punish acts of torture and other forms of ill-treatment. States have an obligation to conduct an effective investigation whenever there are reasonable grounds to believe that an act of torture or other forms of ill-treatment have been committed, irrespective of whether the victim has lodged a formal complaint.¹⁷¹ They are also responsible for having effective systems in place for addressing victims' complaints, and prosecuting torturers, those who order torture, and those in positions of authority who fail to prevent or punish torture.

The obligation to prosecute persons alleged to be responsible for acts of torture includes those who are complicit in acts of torture, as well as those who directly participate in torture. This includes those in the chain of command who knew or should have known that

¹⁶⁹ UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/39/4610, December 1984, adopted by Kyrgyzstan on September 5, 1997.

¹⁷⁰ UN Convention on the Elimination of All Forms of Discrimination against Women, General recommendations made by the Committee on the Elimination of Discrimination against Women, General Recommendation No. 19 (11th session, 1992), <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed December 19, 2013), para. 7; European Court of Human Rights, *Şükran Aydın and Others v. Turkey*, January 23, 2013, [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116031#{"itemid":\["001-116031"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-116031#{), para. 86.; International Criminal Tribunal for the former Yugoslavia, *Prosecutor v. Dragoljub Kunarac, Radomir Kovac and Zoran Vukovic*, case No. IT-96-23 and IT-96-23/1 - A , June 12, 2002; Inter-American Commission on Human Rights, *Raquel Martí de Mejía v. Perú*, Case 10.970, report no. 5/96, March 1, 1996.

¹⁷¹ UN Convention against Torture, arts. 12 and 13.

such acts were perpetrated.¹⁷² The Convention against Torture obligates states to “take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.”¹⁷³ States must ensure that any victim of torture “obtains redress and has an enforceable right to fair and adequate compensation.”¹⁷⁴ On April 14, 2008, Kyrgyzstan also ratified the Optional Protocol to the Convention against Torture (OPCAT), which stipulates that governments should facilitate regular visits to correctional institutions by international experts and create a national prevention mechanism to combat torture and cruel treatment.¹⁷⁵ To fulfill this obligation, the government established a National Center for Prevention of Torture, Inhuman and Degrading treatment in 2012, discussed in more detail above.

In order for investigative mechanisms to work, victims of human rights abuses must have the confidence to bring their allegations to the attention of the authorities. This in turn requires effective mechanisms to protect victims and witnesses who report abuse by state actors from reprisals. To that end, the Convention against Torture states that “[s]teps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”¹⁷⁶

Useful guidance is also provided by the 2011 Guidelines of the Committee of Ministers of the Council of Europe on Eradicating Impunity for Serious Human Rights Violations, which provide, “States should take measures to encourage reporting by those who are aware of serious human rights violations. They should, where appropriate, take measures to ensure that those who report such violations are protected from any harassment and reprisals.”¹⁷⁷ The guidelines also provide, “States should establish and publicize clear procedures for

¹⁷² UN Committee against Torture, General Comment No. 2: Implementation of article 2 by States parties, CAT/C/GC/2, January 24, 2008, http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fGC%2f2&Lang=en (accessed December 19, 2013).

¹⁷³ UN Convention against Torture, art. 2.1.

¹⁷⁴ *Ibid.*, art. 14.

¹⁷⁵ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted December 18, 2002, A/RES/57/199, entered into force June 22, 2006, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCAT.aspx> (accessed January 6, 2014).

¹⁷⁶ UN Convention against Torture, art. 13.

¹⁷⁷ Committee of Ministers of the Council of Europe, “Guidelines of the Committee of Ministers of the Council of Europe on eradicating impunity for serious human rights violations,” March 30, 2011, <https://wcd.coe.int/ViewDoc.jsp?id=1769177> (accessed November 1, 2013).

reporting allegations of serious human rights violations, both within their authorities and for the general public.”¹⁷⁸

The UN Committee Against Torture’s General Comment 3 emphasizes that in the context of restitution for victims of torture, “efforts should be made to address structural causes of violations, including any kind of discrimination, related to, for example, gender, sexual orientation, disability, political or other opinion, ethnicity, age and religion, and all other grounds of discrimination.”¹⁷⁹

In November 2013, after reviewing Kyrgyzstan’s human rights record, the Committee Against Torture expressed concern with reports of police harassment, arbitrary arrest, ill-treatment, and torture against persons based on sexual orientation and gender identity. The committee recommended that the

Government of Kyrgyzstan ensures prompt, impartial and thorough investigations of all allegations of ill-treatment and torture committed by police and detention officials against LGBT persons or others on the basis of their sexual orientation or gender identity, and prosecute and, upon conviction, punish perpetrators with appropriate penalties.¹⁸⁰

The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity state that “everyone has the right to be free from torture and from cruel, inhuman or degrading treatment or punishment, including for reasons relating to sexual orientation or gender identity.”¹⁸¹ The principles call on states to “take all necessary legislative, administrative and other measures to prevent and provide protection from torture and cruel, inhuman or degrading treatment or punishment,

¹⁷⁸ Ibid.

¹⁷⁹ UN Committee against Torture, General Comment No. 3, CAT/C/GC/3, November 19, 2012, http://www2.ohchr.org/english/bodies/cat/docs/GC/CAT-C-GC-3_en.pdf (accessed May 1, 2013).

¹⁸⁰ UN Committee against Torture, Concluding observations on the second periodic report of Kyrgyzstan, CAT/C/SR.1205, November 12, 2013, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/KGZ/CAT_C_KGZ_CO-2_15828_E.doc (accessed December 17, 2013).

¹⁸¹ International Commission of Jurists. Yogyakarta Principles - Principles on the application of international human rights law in relation to sexual orientation and gender identity, Principle 10. March 2007. <http://www.refworld.org/docid/48244e602.html> (accessed June 13, 2013).

perpetrated for reasons relating to the sexual orientation or gender identity of the victim, as well as the incitement of such acts.”¹⁸²

ICCPR articles 2(1) and 26 prohibit discrimination and guarantee equal protection before the law for all persons without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.¹⁸³ The UN Human Rights Committee has held that the reference to sex in articles 2(1) and 26 should be interpreted as including sexual orientation.¹⁸⁴

The Kyrgyz government accepted a recommendation about reviewing its compliance with ICCPR nondiscrimination provisions, including with respect to discrimination on the basis of sexual orientation or gender identity, during its May 2010 Universal Periodic Review.¹⁸⁵ To date, the government has not given a clear indication about how it plans to respond to this recommendation.¹⁸⁶

International guidelines on policing by the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe emphasize the importance of nondiscrimination in policing, and of independent oversight mechanisms in investigating police abuse.

The OSCE Guidebook on Democratic Policing emphasizes that “[a]lleged human rights violations [by police] must be reported and independently investigated.”¹⁸⁷ The guidebook notes that “[without] external oversight mechanisms, police leaders would have the freedom not to investigate or punish misconduct, which could lead to ineffective internal control,” although it points out that effective, internal oversight is also important.¹⁸⁸ The OSCE

¹⁸² Ibid.

¹⁸³ UN International Covenant on Civil and Political Rights, Treaty Series, vol. 999, December 16, 1966, <http://www.refworld.org/docid/3ae6b3aao.html> (accessed 19 December 2013), arts. 2 and 26.

¹⁸⁴ UN Human Rights Committee. *Toonen v. Australia*, CCPR/C/50/D/488/1992, April 4 1994, <http://www.refworld.org/docid/48298b8d2.html> (accessed December 19, 2013).

¹⁸⁵ Human Rights Council, National report submitted in accordance with Paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Kyrgyzstan, A/HRC/WG.6/8/KGZ/1, February 22, 2010, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/111/53/PDF/G1011153.pdf?OpenElement> (accessed December 18, 2013).

¹⁸⁶ Human Rights Watch email correspondence with Veronika Yuryeva, advocacy director, Labrys, June 17, 2013.

¹⁸⁷ Organization for Security and Co-operation in Europe. Guidebook on Democratic Policing by the Senior Police Adviser to the OSCE Secretary General, May 2008, <http://www.osce.org/spmu/23804> (accessed November 1, 2013), para. 79.

¹⁸⁸ Ibid, para. 86.

guidebook adds, “[In] order to fulfill their mandate, external and internal oversight bodies need sufficient resources, legal powers and independence from executive influence.”¹⁸⁹

In 2009 the commissioner for human rights of the Council of Europe published an opinion concerning “independent and effective determination of complaints against the police.”¹⁹⁰ The starting point of the opinion is that “[an] independent and effective complaints system is essential for securing and maintaining public trust and confidence in the police, and will serve as a fundamental protection against ill-treatment and misconduct.”¹⁹¹

The opinion sets out five principles for effective investigation of police complaints, derived from case law of the European Court of Human Rights. The principles include: independence; adequacy [of investigations]; promptness; public scrutiny; and victim involvement.¹⁹² The opinion notes that in some countries, national human rights institutions perform the function of independent police complaints bodies.¹⁹³

The UN Rules for the Protection of Juveniles Deprived of their Liberty indicate that children deprived of their liberty are highly vulnerable to abuse, victimization, and the violations of their rights.¹⁹⁴ In keeping with the Convention on the Rights of the Child (CRC), deprivation of liberty should be used only as a last resort and for the shortest possible period of time. The CRC, to which Kyrgyzstan is a party and is obliged to follow, prohibits arbitrary detention of children and protects children from torture, cruel, inhuman, and degrading treatment, and other abuses while in police custody.

¹⁸⁹ Ibid, para. 93.

¹⁹⁰ Council of Europe, “Opinion of the Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police,” March 12, 2009, <https://wcd.coe.int/ViewDoc.jsp?id=1417857> (accessed November 1, 2013).

¹⁹¹ Ibid, para. 29.

¹⁹² Ibid, para. 30.

¹⁹³ Ibid, para. 86.

¹⁹⁴ United Nations General Assembly, Rules for the Protection of Juveniles Deprived of their Liberty, A/RES/45/113, December 14, 1990, <http://www.un.org/documents/ga/res/45/a45r113.htm> (accessed December 19, 2013).

Acknowledgements

This report was researched by Anna Kirey, researcher in the Lesbian, Gay, Bisexual, and Transgender (LGBT) Rights Program at Human Rights Watch. The interviews were conducted by Anna Kirey and Mihra Rittmann, Central Asia researcher in the Europe and Central Asia Division. LGBT groups Labrys, Kyrgyz Indigo, initiative group Mozaika of the Anti-AIDS Association, Gender Vector, and Pathfinder provided regular assistance.

This report was edited by Jane Buchanan, associate director in the Europe and Central Asia Division and Graeme Reid, director of the LGBT Rights Program. The report was also reviewed by Mihra Rittmann, Central Asia researcher; Veronika Szente Goldston, advocacy director for the Europe and Central Asia Division; Alice Farmer, researcher in the Children's Rights Division; Benjamin Ward, acting senior legal adviser; and Tom Porteous, deputy program director. Danielle Haas reviewed an early draft of the report. Adam Frankel, associate for the LGBT Rights Program, Kaitlin Martin, associate for the Europe and Central Asia Division, and George Kobakhidze, intern for the Europe and Central Asia division, provided invaluable assistance in proofreading and formatting the report. Allison Gill helped in preparing the report for its release. The report was translated into Russian by Igor Gerbich and partially translated into Kyrgyz by Syinat Sultanalieva and into Uzbek by Umida Niyazova.

Production assistance was provided by Adam Frankel, Kaitlin Martin, Jessie Graham, Grace Choi, Kathy Mills, and Fitzroy Hepkins.

Sardar Bagyshbekov and Asel Koilubayeva from the NGO Voice of Freedom, which works on issues of torture in Kyrgyzstan, provided invaluable support in understanding the legal complexities of Kyrgyzstan's criminal and administrative codes. Natalia Shumskaya from AIDS Foundation East-West, Rachel Thomas, Olga Rychkova, Leo Beletsky, and Sanjay Patil from Open Society Foundations, and Erica Marat, a fellow at the Woodrow Wilson International Center for Scholars, provided assistance and advice in understanding police reform efforts in Kyrgyzstan. Timur Shaikhutdinov, Olga Korzhova, Aleksandra Cherkasenko, Akram Kubanychbekov, Dmitry Kabak, and Ulugbek Azimov provided additional assistance in understanding police reform processes and legal frameworks.

Many individuals in Kyrgyzstan played a valuable role in providing guidance for this research. This includes independent consultant Dahn Pak, Daniyar Orsekov of Kyrgyz Indigo, Danik Kasmamytov of Bishkek Feminist Collective SQ, Aiman, Aziz, Alisher, Veronika Yuryeva, Kristina Mahnicheva, and Nazik Abylgazieva of Labrys. We are deeply grateful to all the survivors of police abuse who shared their stories with us.

“They Said We Deserved This”

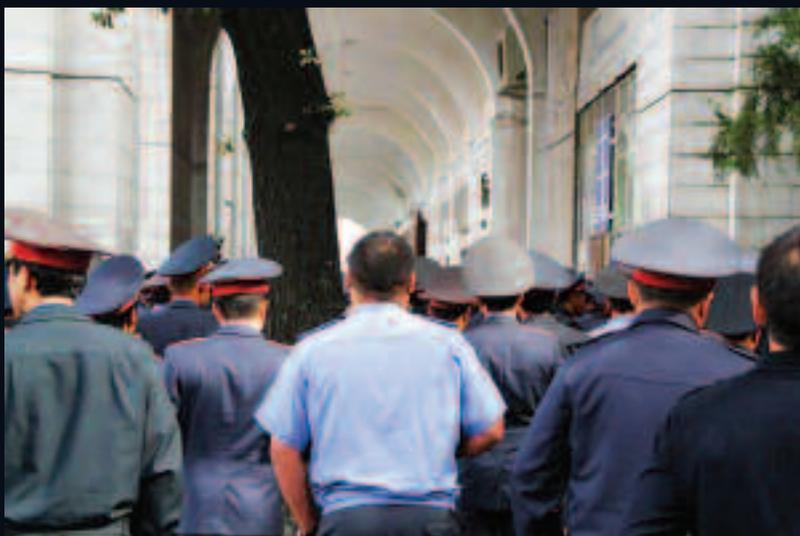
Police Violence Against Gay and Bisexual Men in Kyrgyzstan

Although consensual sex between men was decriminalized in Kyrgyzstan in 1998, police target gay and bisexual men for violence and extortion. *“They Said We We Deserved This”* finds that gay and bisexual men are subjected to a range of abuses at the hands of police in Kyrgyzstan, including physical, sexual, and psychological violence; arbitrary detention; and extortion under the threat of violence or of exposing victims’ sexual orientation to friends and family.

Violence, blackmail, and extortion by police, and a lack of accountability for these crimes, are common in Kyrgyzstan. But those who belong to minority groups, including gay and bisexual men, are particularly vulnerable. Pervasive homophobia in society and widespread police corruption contribute to these abuses.

Victims are reluctant to report police abuses to the authorities, fearing retaliation or the disclosure of their sexual orientation to their family or employers by the police. Very few cases of ill-treatment and other crimes by police against gay men are investigated and even fewer perpetrators are brought to justice. The failure to hold police to account creates a climate of impunity which encourages further abuse.

To put an end to police abuse of gay and bisexual men, the government of Kyrgyzstan should take steps to encourage reporting of complaints of police violence and extortion against gay and bisexual men, including by establishing victim and witness protection mechanisms. Authorities should ensure that all allegations are promptly and effectively investigated.



*Kyrgyzstan police standing near Ala-Too square.
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