

**Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity**

REFERENCE:  
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, pursuant to Human Rights Council resolutions 43/16, 43/4 and 41/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the alleged physical attack and prosecution of the blogger and human rights defender, Mr. Miraziz Bazarov**, which are reportedly related to his human rights activities, including advocating for LGBTI rights and the exercise of his right to freedom of expression.

Mr. **Miraziz Bazarov** is a human rights defender and independent blogger. On his social media accounts, he advocates for the decriminalisation of consensual sexual relations between men in Uzbekistan. Mr. Bazarov has also been outspoken about corruption and the lack of transparency over the use of COVID-19-related funds by the authorities.

According to the information received:

On 22 February 2021, Mr. Bazarov called for a boycott of the upcoming presidential elections, which he perceived as unfair. On 5 March 2021, he expressed support for a joint statement published by human rights organisations calling for decriminalising consensual sexual relations between men in Uzbekistan.

In the weeks after making the two statements, Mr. Bazarov began receiving online threats. Individuals, who are believed to be affiliated with the State security apparatus, posted his home address online and started a wide-scale smear campaign against him on social media. Mr. Bazarov filed complaints with State authorities, including the Ministry of Internal Affairs and the State Security Service, however they allegedly refused to accept them.

On 28 March 2021, a group of unknown individuals attacked Japanese anime and Korean pop music fans in Tashkent, reportedly because they perceived them as LGBTI activists. The Ministry of Internal Affairs shortly thereafter published a video blaming the attacks on what he qualified as Mr. Bazarov's promotion of homosexuality in a traditional society.

The same day, three unknown individuals, who according to the information we received may have been plainclothes security officers, or affiliated with the security service, brutally beat Mr. Bazarov outside his home in Tashkent. As a

result of the attack, Mr. Bazarov suffered serious injuries, including a fractured leg and concussion.

His injuries were treated at the Republican Clinical Hospital No. 1, where he stayed until 29 April 2021. During this time, he was under constant police surveillance. He was reportedly not allowed to use his smartphone, receive information, or talk to anyone except his mother and his lawyer (who were also not allowed to visit him for the first several days). Mr. Bazarov was reportedly forced to stay in the hospital longer than needed for treatment.

On 30 March 2021, while Mr. Miraziz Bazarov was still in hospital, law enforcement officers allegedly conducted an unwarranted search of his home and seized his computer. On 31 March 2021, they allegedly searched the home of Mr. Bazarov's mother and seized her laptop as well as Mr. Bazarov's cameras and mobile phones. The seized electronic devices allegedly contained sensitive information.

On 29 April 2021, upon his release from the hospital, Mr. Bazarov was taken to the Tashkent police department and charged with "defamation with a profit motive or other foul motives" (article 139 (3) (d) of the Criminal Code of Uzbekistan) and "insult" (article 140 of the Criminal Code of Uzbekistan). The charges allegedly relate to critical online statements he made about school teachers and several other persons. The basis for which is purported to be 29 complaints submitted to the police between 1 and 20 April 2021.

In May, he received a further charge of defamation. The referred individuals who ran the smear campaign against him and published his home address online, are the ones who support the accusations against him.

Mr. Bazarov is being kept under house arrest pending trial. If found guilty, he could face up to three years of imprisonment. The police have reportedly begun an investigation into the physical attack of Mr. Bazarov, but the status or results are unclear.

Without wishing to prejudge the accuracy of the information received, we wish to express concern as to the alleged physical attack and prosecution of Mr. Miraziz Bazarov, who appears to have been targeted for his legitimate work in the defence of human rights for exercising his right to freedom of expression.

We furthermore express our concern at allegations received about the lack of investigation into online threats, as well as searches and seizure of electronic devices by the law enforcement officers, which seem to be aimed at further intimidating and silencing him. We are seriously concerned at the chilling effect that this case might have on other human rights defenders in Uzbekistan, especially those working on the rights of LGBTI people. Such acts of intimidation, physical attacks and prosecution may discourage them from exercising their rights for fear of retaliation or harassment.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide full details of any protective measures put in place to ensure Mr. Bazarov physical and psychological security and integrity, as well as that of his relatives.
3. Please provide the details, and where available the results, of any investigation, which may have been carried out in relation to the allegations of the physical attack, smear campaign, threats, and the publication of Mr. Bazarov's home address.
4. Please provide information on the legal basis for the arrest and for the charges brought against Mr. Bazarov, and how these are compatible with your Excellency's Government's international human rights obligations under the ICCPR.
5. Please provide information about the legal basis for the searches made on his and his mother's homes, and the seizure of electronic devices, and explain how these measures are compatible with Uzbekistan's obligations under international human rights law.
6. Please indicate what measures have been taken to ensure that human rights defenders, including those working on the rights of LGBTI people are able to carry out their legitimate work in Uzbekistan in a safe and enabling environment without fear of harassment, criminalisation, threats or acts of intimidation of any kind towards them and their families.

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Mary Lawlor  
Special Rapporteur on the situation of human rights defenders

Irene Khan  
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Victor Madrigal-Borloz  
Independent Expert on protection against violence and discrimination based on sexual  
orientation and gender identity

## **Annex**

### **Reference to international human rights law**

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the following human rights standards:

We would like to refer your Excellency's Government to article 19 of the International Covenant on Civil and Political Rights (ICCPR), acceded to by Uzbekistan on 28 September 1995, that guarantees the rights to freedom of opinion and expression. The right to freedom of expression includes freedom to seek, receive and impart information and ideas of all kinds through any media.

As interpreted by the Human Rights Committee in General Comment No. 34 (CCPR/C/GC/34), such information and ideas include, inter alia, political discourse, commentary on one's own and on public affairs, and discussion of human rights (Paragraph 11), and all forms of expression and the means of their dissemination are protected, including electronic and internet-based modes of expression (Paragraph 12). Article 19 requires the States to guarantee the right to freedom of expression (Paragraph 11). It is the States' duty to put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression (Paragraph 23). An attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, threats to life and killing, can under no circumstance be compatible with article 19 (Paragraph 23). All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims be in receipt of appropriate forms of redress (Id.).

We would also like to remind your Excellency's Government that any restrictions to the right to freedom of expression must meet the criteria established by international human rights standards, such as article 19 (3) of the ICCPR. Under these standards, restrictions must be provided for by law and conform to the strict tests of necessity and proportionality.

The Human Rights Committee in its General Comment No. 34 (CCPR/C/GC/34) notes explicitly that defamation laws must be crafted with care to ensure that they comply with the criteria of legality, necessity, and proportionality, and that they do not serve, in practice, to stifle freedom of expression (Paragraph 47). All such laws should include such defences as the defence of truth, they should not be applied with regard to those forms of expression that are not, of their nature, subject to verification, and in any event, public interest in the subject matter of the criticism should be recognised as a defence. (Id.) States should consider the decriminalisation of defamation, and, in any case, the application of the criminal law should only be countenanced in the most serious of cases, and imprisonment is never an appropriate penalty. (Id.) Finally, article 19 (3) may never be invoked to justify the muzzling of any advocacy of human rights (Paragraph 23).

The United Nations High Commissioner for Human Rights acknowledged that LGBT defenders and supporters of related rights had been subjected to violence and harassment when convening meetings (A/HRC/19/41, para. 64). He further noted that

States have obligations to protect rights to freedom of thought and expression, association and peaceful assembly without discrimination on the grounds of sexual orientation or gender identity (A/HRC/29/23, para. 18). To that end, he recommended States (i) ensure that individuals can exercise their rights to freedom of expression, association and peaceful assembly in safety without discrimination on grounds of sexual orientation and gender identity; and (ii) implement appropriate sensitisation and training programmes for police and other law enforcement personnel (A/HRC/19/41, paragraphs. 84 (f) and (g), A/HRC/29/23, paragraph. 78 (e)).

The Special Rapporteur on the situation of human rights defenders highlighted that defenders promoting the rights of LGBT persons are often the target of numerous attacks and the lack of any protection under the law or in practice exacerbates the vulnerability of those defenders (A/70/217, paragraphs. 65-66). Therefore, he recommended that States adopt the following measures: (i) do more to disseminate the work of defenders and to support their work through campaigns and specific communication and information activities that pay tribute, in particular, to the contributions made by certain categories of defenders, such as the rights of LGBT persons, and (ii) provide State agents, especially those who are in direct contact with communities of defenders, with the necessary training regarding the role and rights of defenders and regarding the Declaration on human rights defenders (Paragraphs. 93 (a) and (i)).

We would also like to remind your Excellency's Government of articles 9, 14 and 17 of the ICCPR that guarantee the rights to not be subjected to arbitrary or unlawful interference with one's privacy or home, arbitrary arrest or detention, arbitrarily deprivation of liberty, as well as the right to a fair hearing by an independent and impartial tribunal.

Furthermore, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, adopted on 9 December 1998 (also known as the UN Declaration on Human Rights Defenders). Articles 1 and 2 of the Declaration state that everyone has the right to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Likewise, we would like to bring to the attention of your Excellency's Government the following provisions of the UN Declaration on Human Rights Defenders:

- Article 6 (a), which provides for the right to know, seek, obtain, receive and hold information about all human rights and fundamental freedoms;
- Article 6 (b) and (c), which provides for the right to freely publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms; and to study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and to draw public attention to those matters;

- Article 9 (1), which establishes that in the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights, everyone has the right to benefit from an effective remedy and to be protected in the event of the violation of those rights; and
- Article 12 (2) and (3), which provides that the State shall take all necessary measures to ensure the protection of everyone against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure, or any other arbitrary action as a consequence of their legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities, and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, and acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

The Human Rights Council, in its resolution 13/13 (A/HRC/RES/13/13), urged the States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms. In resolution 22/6 (A/HRC/RES/22/6), the Council urged States to create a safe and enabling environment in which human rights defenders can operate free from hindrance and insecurity (Paragraph 2). In its resolution 31/32 (A/HRC/RES/31/32), the Council further called upon all States to take all measures necessary to ensure the rights and safety of human rights defenders (Paragraph 2).