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**Submission by Human Rights Watch to the Committee on Economic, Social and Cultural Rights on Uzbekistan**

**71st Session (14 Feb 2022 - 04 Mar 2022)**

This submission to the Committee on Economic, Social and Cultural Rights ahead of its review of Uzbekistan focuses on issues of discrimination based on sexual orientation and gender identity (Articles 2 and 12), forced labour (Article 6, 7 and 8), rehabilitation of former political prisoners (Article 6 and 12) and violence against women (Articles 3 and 10).

Since the last review of Uzbekistan’s compliance with the International Covenant on Economic, Social and Cultural Rights in 2014, the government of Uzbekistan has made human rights improvements following President Shavkat Mirziyoyev’s assumption of power following the death of Islam Karimov. For example, there was a marked reduction in forced labor in Uzbekistan’s cotton fields, and a handful of nongovernmental organizations were allowed to register. However, many human rights groups still face significant obstacles trying to register their organizations, and Uzbekistan’s political system remains largely authoritarian. Consensual same-sex relations between men continue to be criminalized, carrying a prison sentence of one to three years.

**Discrimination based on Sexual Orientation and Gender Identity (Articles 2 and 12)**

Under article 120 of the Criminal Code of the Republic of Uzbekistan, men in Uzbekistan who engage in consensual same-sex sexual conduct can be prosecuted and face three-years imprisonment.[[1]](#footnote-1) Uzbek authorities have repeatedly dismissed calls to decriminalize homosexuality, and a new draft Criminal Code[[2]](#footnote-2) retains the offense, with the wording unchanged, in article 154, in a section of the code related to “crimes against morality and family”.

Gay men face threats and extortion by both police and non-state actors. Uzbek law has no provision for hate crimes, nor can crimes be prosecuted as aggravated offenses if they are motivated by hatred based on discrimination. Uzbekistan has yet to adopt a comprehensive anti-discrimination law that includes sexual orientation and gender identity as a protected ground. As of September 2019, the Uzbek government said there were no ongoing criminal investigations involving violence against LGBT people.

Uzbek police and courts have relied on the conclusions of forced anal examinations conducted between 2017 and 2021 to prosecute men for consensual same-sex relations. In a recent case of which Human Rights Watch is aware, Internal Affairs officials ordered doctors to perform forced anal exams on two men in early 2021. A Tashkent court sentenced both men to two years under house arrest, partly based on medical reports from the exams purporting to find evidence of same-sex conduct. The men, who had lived together before the arrest, were ordered to serve their sentences in cities 500 kilometers apart and have been prohibited from using the internet. The verdict against the two men confirms that both were subjected to forced anal exams while in detention. The ruling relied in part on a medical examiner’s report suggesting that “bruises and superficial tears,” “radial turns” that are “slightly smooth,” and a “slightly weakened” anal sphincter tone were likely evidence of anal sex. The court ruling seems to rely on bogus theories[[3]](#footnote-3) popularized by an 1857 French medical text on how to identify a “habitual pederast” through anal examination.[[4]](#footnote-4)

Forced anal exams, conducted purportedly to find “proof” of homosexual conduct, often involve doctors or other medical personnel inserting their fingers, and sometimes other objects, into the anus of the accused without their consent, in an attempt to determine whether the person has engaged in receptive anal intercourse. The World Health Organization has denounced the exams as a form of violence and torture.[[5]](#footnote-5)

The World Medical Association[[6]](#footnote-6) has called on medical professionals to stop conducting the exams, saying that it is “deeply disturbed by the complicity of medical personnel in these non-voluntary and unscientific examinations, including the preparation of medical reports that are used in trials to convict men and transgender women of consensual same-sex conduct.”[[7]](#footnote-7)

*Human Rights Watch recommends to the Committee that it call upon the government of Uzbekistan to:*

* Decriminalize consensual same sex conduct between men and halt any prosecutions under article 120 of the Criminal Code; ensure the personal security, privacy, and non-discrimination of the lesbian, gay, bi-sexual, and transgender (LGBT) community in Uzbekistan;
* Immediately ban forced anal exams and their use as evidence to prosecute men for consensual same-sex relations;
* Investigate attacks and harassment based on sexual orientation and gender identity, including threats made by law enforcement officers to use article 120 against people, and hold those responsible to account;
* Adopt effective nondiscrimination policies, combat violence, harassment, and hatred against LGBT people, and facilitate the registration and operation of nongovernmental groups working on LGBT issues.

**Labour rights (Article 6, 7 and 8)**

Since the last review of Uzbekistan’s record, Uzbekistan has made significant efforts to reduce forced labor in its cotton sector. Positive steps that contributed to reduction of forced labour are the criminalization in January 2020 of the repeated use of forced labour, and the elimination in March 2020 of the production quota system.

Although the International Labour Organization (ILO) concluded in January 2021 that there was no systemic forced or child labor in the 2020 cotton harvest, it noted that “about four percent [of pickers] were subject to direct or perceived forms of coercion,” that is, approximately 80,000 people.[[8]](#footnote-8) In October 2020, the Uzbek Forum for Human Rights reported that the government forced employees of public institutions and enterprises to pick cotton or pay for replacement pickers during the 2020 harvest.

The ILO also noted that in the 2020 cotton harvest “there were [only] isolated cases of minors below the legal working age picking cotton.” However, the Uzbek Forum for Human Rights[[9]](#footnote-9) found during the Fall 2021 cotton harvest “more cases of child labor than in recent years, when only sporadic cases were identified …they [children] were accompanied by their parents and likely reflects increasing poverty in rural areas.” Nevertheless for the cotton harvest in 2021, for the first time in more than a decade of monitoring cotton harvest, Uzbek Forum for Human Rights found no systematic forced labor organized by state officials.

However, the progress in elimination forced labour varies greatly between different regions of Uzbekistan. The Uzbek Forum documented that in areas which lack voluntary pickers, officials of mahalla (neighbourhood committees) resorted to pressure on potential pickers, by threatening residents that their social benefits would be reduced or withheld. Farmers lack bargaining power when it comes to negotiating their contracts and cotton price.[[10]](#footnote-10)

The lack of independent trade unions and civil society organizations in Uzbekistan to protect workers’ rights and monitor the government’s compliance with the ban on forced labor undermines sustainability of progress made so far in the cotton sector.

During the reporting period, the authorities in Uzbekistan interfered regularly in the work of civil society. For example, on February 1, 2020 in Nukus, a city in Karakalpakstan, several activists, and the founding members of Chiroq, an NGO that focuses on monitoring forced labor in the cotton sector, met with five representatives of the Cotton Campaign[[11]](#footnote-11) member organizations, including two staff members of Human Rights Watch. Early in the morning, a traffic police officer stopped a human rights defender, Arslanbay Utepov, as he was driving to the meeting. The police took Utepov to the local administration, where the authorities held him until the evening, and warned him not to interact with international human rights organizations. The police officers also stopped Zaripbay Reymov, a member and co-founder of Chiroq, on his way to the meeting. The officers seized his phone and took him to a police station, holding him there until the afternoon. On that day, Chiroq’s founder, Guldana Seidemetova, was urgently ordered to come to a clinic where she works “because a commission from Tashkent was coming,” but no commission arrived.

In its Concluding observations on the second periodic report of Uzbekistan in 2014, the Committee called on the Uzbek authorities to repeal “the mandatory registration requirement for non-governmental organizations and revising national legislation in line with its obligations under article 8 of the Covenant and article 34 of the Constitution of Uzbekistan, which affirms the right of citizens to form their own organizations”[[12]](#footnote-12).

Since the last review, the government has taken some important steps to ease the registration process regulated by the 2014 Cabinet of Ministers Decree on the procedure for state registration of nongovernmental nonprofit organizations.[[13]](#footnote-13) These steps include significantly reducing[[14]](#footnote-14) the registration fee, cutting[[15]](#footnote-15) the time period for government review of registration documents from two months to one month, and opening[[16]](#footnote-16) a portal that allows submission of applications by nongovernmental groups online. But vague and burdensome rules remain in place.

In recent years, Uzbek authorities also claim that civil society organizations[[17]](#footnote-17) “are becoming a full partner of the state” and that “measures are being taken to increase their role and importance”.[[18]](#footnote-18) Yet the Justice Ministry repeatedly denies registration to independent groups on trivial and technical grounds. Without registration, the groups are not permitted to legally work in the country. In April 2021, the Humanitarian Legal Center in Bukhara was denied registration for the ninth time. The volunteer youth group Oltin Qanot (“Golden Wing”) has been denied registration 21 times. In September 2021, after being denied registration for the eighth time, the founders of the rights group Human Rights House filed a lawsuit against the Justice Ministry.

In October 2019, President Mirziyoyev ordered the establishment of a working group to prepare a new code for nongovernmental groups with the aim of streamlining legislation on civil society and ordered the draft to be submitted for review to the Cabinet of Ministers by February 1, 2020. In January 2020, the draft was finalized, but it failed to eliminate the existing restrictions, according to assessments by local civil society experts. Subsequent deadlines have been missed. Human Rights Watch was not aware of further steps taken to finalize the draft code and it has not been made available to the public.

*Human Rights Watch recommends to the Committee that it call upon the government of Uzbekistan to:*

* Fully abolish the practice of forced labor in cotton fields, including by holding accountable local authorities that mobilize state emergency services staff and private sector employees.
* Liberalize registration procedures for NGOs and register independent civil society; organizations, including international human rights groups, and those who have been repeatedly denied registration;
* Stop intervening with the work of civil society organisations aimed at documenting violations of economic, social and cultural rights;
* Provide information on the new code for nongovernmental groups;
* Allow independent trade unions to register and operate without fear of retaliation and uphold commitments to implement ILO Conventions 87 and 98.

**Rehabilitation of former political prisoners (article 6 and 12)**

The Uzbek government has released more than 50 people imprisoned on politically motivated charges, including journalists, human rights defenders, and other activists since President Shavkat Mirziyoyev took office in September 2016.[[19]](#footnote-19)

Released political prisoners face legal and economic barriers following their release, including restrictions on freedom of movement, inability to obtain court decisions needed to appeal unlawful sentences, surveillance, and inadequate medical care for health ailments stemming from their incarceration. Former political prisoners face great difficulties reintegrating into their families and society after years or decades in prison. Many are suffering from severe physical and psychological health problems resulting from years of torture and detention in dismal conditions, often in isolation from other prisoners or in prisons far from their families. Social support structures and services they need are largely non-existent, meaning they must depend on often ill-prepared family members for the support they need.

*Human Rights Watch recommends to the Committee that it call upon the government of Uzbekistan to:*

* Ensure former political prisoners receive full legal rehabilitation to enable them to take a full part in society;
* Address the significant medical, mental health, and economic needs of former political prisoners as they attempt to reintegrate into society;
* Ensure their access to adequate and appropriate medical care to treat all health problems linked to their imprisonment.

**Violence against Women (article 10)**

Deep inequality between men and women persists in Uzbekistan. Domestic violence remains a serious problem. In 2014, the Committee called on the Uzbek authorities to criminalise domestic violence and adopt the draft law on preventing violence against women.[[20]](#footnote-20) To this day, neither domestic violence nor marital rape are explicitly criminalized, and the draft Criminal Code, published in February 2021, did not include a standalone offence of domestic violence. Between January and March 2021, the Internal Affairs Ministry registered 11,070 complaints of harassment and violence against women. While the State Commission on Gender Equality reported in 2019 that it had opened 197 rehabilitation and adaptation centers for women who experience violence, a June 2020 media report found that many such centers “did not exist” or “did not function” as intended.

*Human Rights Watch recommends to the Committee that it call upon the government of Uzbekistan to:*

* Urgently introduce criminal provisions to ensure domestic violence is a stand-alone crime and subject to public prosecution and appropriate punishments commensurate with the gravity of the abuse;
* Ensure that survivors of domestic abuse have immediate and straightforward access to protection, including through ensuring sufficient shelter spaces, including in rural areas.
1. “Uzbekistan: Gay Men Face Abuse, Prison. Ensure Rights to Personal Security, Privacy, Nondiscrimination,” March 23, 2021, <https://www.hrw.org/news/2021/03/23/uzbekistan-gay-men-face-abuse-prison>. [↑](#footnote-ref-1)
2. Uzbekistan’s Prosecutor General’s Office, which was tasked with drafting the new Criminal Code, published the draft law on February 22, 2021 and made it available online for public discussion until March 9, 2021. The draft is expected to be submitted to Uzbekistan’s lower house of parliament, the Oliy Majlis, for consideration soon. “Uzbekistan: Draft Criminal Code Offers Little Meaningful Reform,” March 10, 2021, <https://www.hrw.org/news/2021/03/10/uzbekistan-draft-criminal-code-offers-little-meaningful-reform>. [↑](#footnote-ref-2)
3. BuzzFeed News, “Egyptian Doctors Think This Torturous Exam Can Detect "Chronic Homosexuals,” February 16, 2015, <https://www.buzzfeednews.com/article/lesterfeder/egyptian-doctors-think-this-torturous-exam-can-detect-chroni> (accessed January 26, 2022). [↑](#footnote-ref-3)
4. “In a Time of Torture: The Assault on Justice In Egypt's Crackdown on Homosexual Conduct,” 2004, <https://www.hrw.org/reports/2004/egypt0304/egypt0304.pdf>. [↑](#footnote-ref-4)
5. World Health Organization, “Gender, Equity and Human Rights (GER),” March 2017, <https://www.who.int/gender-equity-rights/news/20170329-health-and-sexual-diversity-faq.pdf?ua=1> (accessed January 26, 2022). [↑](#footnote-ref-5)
6. “Global Medical Body Condemns Forced Anal Exams,” October 17, 2017, <https://www.hrw.org/news/2017/10/17/global-medical-body-condemns-forced-anal-exams>. [↑](#footnote-ref-6)
7. World Medical Association, “WMA Resolution on Prohibition of Forced Anal Examinations to Substantiate Same-Sex Sexual Activity,” October 17, 2017, <https://www.wma.net/policies-post/wma-resolution-on-prohibition-of-forced-anal-examinations-to-substantiate-same-sex-sexual-activity/> (accessed January 26, 2022). [↑](#footnote-ref-7)
8. International Labour Organization, “2020 third-party monitoring of child labour and forced labour during the cotton harvest in Uzbekistan,” January, 2021, <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---ilo-washington/documents/projectdocumentation/wcms_767756.pdf> (accessed on January 26, 2022). [↑](#footnote-ref-8)
9. Email communication with the Uzbek Forum for Human Rights, January 2022. [↑](#footnote-ref-9)
10. Uzbek Forum for Human Rights, “Key Findings from the 2020 Cotton Harvest in Uzbekistan,” 2021, <http://www.cottoncampaign.org/uzbek-forum-key-findings-2020.html> (accessed January 26, 2022). [↑](#footnote-ref-10)
11. The campaign is a global coalition of human rights, labor, investor, and business organizations dedicated to eradicating forced and child labor in cotton production in Uzbekistan. [↑](#footnote-ref-11)
12. Committee on Economic, Social and Cultural Rights, “Concluding observations on the second periodic report of Uzbekistan,” June 13, 2014, para 16 <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fUZB%2fCO%2f2&Lang=en> (accessed January 26, 2022). [↑](#footnote-ref-12)
13. “On Measures to Implement the Decree of the President of the Republic of Uzbekistan dated December 12, 2013 No. PP-2085 "On Additional Measures to Promote the Development of Civil Society Institutions,” March 3, 2014, <https://www.lex.uz/docs/2356874> (accessed January 26, 2022). [↑](#footnote-ref-13)
14. Ministry of Justice of the Republic of Uzbekistan, “From January 1, 2020, the state duty for registration of NGOs will decrease”, <https://www.minjust.uz/ru/press-center/news/98344/> (accessed January 26, 2022). [↑](#footnote-ref-14)
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16. Ministry of Justice of the Republic of Uzbekistan, “How to register an NGO through the electronic services portal e-ngo.uz,” <https://www.minjust.uz/ru/press-center/news/98569/> (accessed January 26, 2022). [↑](#footnote-ref-16)
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18. “On Measures to Radically Increase the Role of Civil Society Institutions in the Process of Democratic Renewal of the Country,” May 4, 2018, <https://lex.uz/docs/3721651> (accessed January 26, 2022). [↑](#footnote-ref-18)
19. “Uzbekistan: Release and Rehabilitate Political Prisoners,” November 17, 2018, <https://www.hrw.org/news/2018/11/17/uzbekistan-release-and-rehabilitate-political-prisoners>. [↑](#footnote-ref-19)
20. Committee on Economic, Social and Cultural Rights, “Concluding observations on the second periodic report of Uzbekistan,” June 13, 2014, para 18 <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fUZB%2fCO%2f2&Lang=en> (accessed January 26, 2022). [↑](#footnote-ref-20)