

**Alternative report to the Committee
against Torture on implementation of
the Convention against Torture and Other
Cruel, Inhuman or Degrading Treatment
or Punishment by Uzbekistan**

Uzbek League for Human Rights

2019

Uzbekistan acceded to the Convention against Torture¹ on 28 September 1995. At that time, Uzbekistan did not make declarations under either Article 21, recognizing the CAT's competence to receive inter-state complaints, or Article 22, which would permit the CAT to receive individual complaints.

Uzbekistan did not make any reservations to the Convention against Torture. Uzbekistan presented its initial report to the Committee against Torture in February of 1999.² The second periodic report was presented to the CAT on 28th session on 29 April-17 May 2002.

This report prepared by Uzbek League for Human Rights (ULHR)

The goal of the organization is promoting protection of human rights and supporting democracy and rule of law in Uzbekistan.

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¹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Adopted by UN General Assembly resolution 39/46 of 10 December 1984, entry into force on 26 June.

² See Initial reports of State parties due in 1996: Uzbekistan. 24/08/99, CAT/C/32/Add.3. See also Conclusions and recommendations of the Committee against Torture: Uzbekistan. 19/11/99, A/55/44, paras.76-81

General Background

Since September 2016, Uzbekistan with its new leadership has been at the attention of the international community. Indeed, after twenty-five years of dictatorship rule many progressive governments and Uzbek people are hoping for liberal changes in Uzbekistan. So far, we observe changes that were introduced by the new president only toward economics rather than politics. Nearly, there are no changes in term of civil, political and human rights, and creation of a good and free atmosphere for genuine work of civil society.

Certainly, during the last two years, there are instigating changes that new government has introduced such as: opening up country for international business, making local currency (Sum) convertible, resolving many border issues and making friendship with close neighbors in the region, and calling everybody for visiting Uzbekistan and setting up easy rules for tourism. Mostly, calling for foreign investors to come to Uzbekistan and giving presidential guaranty for protection of their businesses. Indeed, how can one generate real business atmosphere and its protection without genuine political reforms, which undoubtedly are needed to begin with creation of institutions that may help to safeguard rule of law and human rights in the country? Yet, we admit that creation and functional work of institutions will take long time. But, for that the setup of such structures should be shaped from the beginning in right turn. We have not seen any changes so far.

However, in terms of real political changes and human rights, there no reforms were undertaken, except tackling of certain social issues - like building social housing for poor, and creating: Virtual Direct Line for People Compline's at the president office (Presidentskiy Portal.) As we expected, this channel worked in the beginning very well and helped to many people to solve their problems. In fact, after two years this Line lost its effectiveness. Helping people through presidential office, simply speaking the government interaction from the top, to solve their compline's, would help neither government nor people, as it will not build or ensure rule of law in long term.

In this new situation, unfortunately, torture still remains to be an everyday practice for the law enforcement to obtain confessions. During the last two years, we documented many cases of torture of civil society members and other detainees and the followings were published by free media.^{3, 4, 5}

Measures to combat torture are not effective so far, as they are not being implemented as a part of comprehensive reforms. Government is still reluctant to introduce real changes in the legislation, such as to bring the definition of torture in the full compliance with the

³ Radio Ozodlik, Political prisoner died in prison 15.06.2017, available at:

<https://rus.ozodlik.org/a/28557271.html>

⁴ REFL org, Uzbek prison released the body of another inmate, 22.07.2017, available at:

<https://centre1.com/uzbekistan/uzbekistanskaya-tyurma-vydala-telo-eshhe-odnogo-zaklyuchennogo/>

⁵ Open Democracy, In Uzbekistan prisons torture is an everyday occurrence, 13.07.2017 available at

<https://www.opendemocracy.net/en/odr/in-uzbekistan-s-jails-torture-is-everyday-occurrence/>

Article 1 of the Convention against Torture; increase the punishment for the use of torture according to international ethics of impunity, and remove the possibility to amnesty people accused in this grave crime. Independency of judiciary and autonomous legal defense, and other mechanisms of the fair trial principles have high importance in torture prevention and none of those are fully and properly implemented in Uzbekistan. All this will be reviewed in this report.

Definition of Torture

The Committee reiterates its previous recommendation that the State party adopts in its criminal code a definition of torture that reflects all of the elements contained in article 1 of the Convention. The State party should ensure that persons who act in an official capacity, as well as officials who consent to or acquiesce in torture perpetrated by third parties, are classified under the law as perpetrators of torture rather than, as is presently the case, persons who aid and abet torture. The practice of granting amnesties to persons convicted of torture or ill-treatment should be abolished, as outlined by the Committee in its general comments Nos. 2 (2007) on the implementation of article 2 by States parties and 3 (2012) on the implementation of article 14 by States parties, which affirm that amnesties for the crime of torture are incompatible with the obligations of States parties.

Uzbekistan attempted to adopt detention of torture in its Criminal Code (CC) twice. The first attempt was in 2003, and the second in 2018. In April 2018, Uzbekistan re-defined the Article 235 of the Criminal Code. However, there are following limitations and incompliances with the Article 1 of the CAT with the new definition of torture on Uzbek legislation.

First of all, the Article 1 of the CAT's definition of torture mandate not to narrow the exclusive list of actions. Contrary of that the new Uzbek definition of torture contracts the possible torture acts for following actions: **“by threats, strikes, beatings, distress causing torment or other illegal actions...”**

Next, the legislator repeated again as it was in prior definition following paradox: “The use of torture and other cruel, inhuman or degrading treatment or punishment, that is, **unlawful** mental, psychological, physical or other pressure on...’ **The word “unlawful”** may raise problems with interpretation of the Article 235 of the CC. Since no lawful actions can be seen in Uzbek legislation, as no corporal punishment on Uzbekistan Criminal Code or other laws.

Similarly, the same word **“other illegal actions”** repeated in the new definition, like it was in old one that may bring problem with its interpretation. The most importantly, there are no word of **“intentionally inflicted”** and **“other persons acting in official capacity”** on the new definition.

Furthermore, as we learned from other reports, the delegation of the country at the CAT meetings claimed that the Supreme Court's Plenary directed courts to apply definition that has Article 1 of the CAT in Uzbekistan. Indeed, according to the Part 18, of the Supreme

Court Plenary decision #17,⁶ from December 2003, the Court illustrates that Article 1 of the CAT as it is. However, since 2003, it has not been adopted into Criminal Code. Furthermore, in August 2018, the Supreme Court Plenum abolished the old Decision from 2003 and adopted a new Decision # 24.⁷ Part 4 of the Supreme Court's Plenum decision from 2018 explains, what is torture, and it partially illustrates shortcut version of the CAT definition, which especially excludes "discrimination." Again, so far this Decision # 24 has not been incorporated to the Article 235 of the Criminal Code.

Similarly, Part 1 of the new definition of torture in Criminal Code lacks of the word: "discrimination." The legislator included the word of "discrimination on the second part of the article. It is only admitting: "national, racial, religious, and social" types of discrimination. Please note that these types of discrimination are not part of the main definition of torture, it only uses as an aggravating circumstances.

Additionally, Uzbek legislation does not see the torture as criminal act against person dignity and honor. Because this article previously called "Prinujdenie pokazaniyu/Constraint to confession" it is considered as a crime against justice. Please see the Article 235 of Criminal Code of Uzbekistan as part of Chapter XVI – Crimes against Justice. We believe that the place of such article should be at the Chapter VI of the Criminal Code of Uzbekistan, which contains articles dealing with crimes against freedom, honor and dignity of a human being.

Amnesty and Pardon for torture

The government has to undertake not to grant the amnesty for torture perpetrators, and there is no clear prohibition of use of amnesty on national criminal legislation. Although the government the Part #71 mentions about drafting legislation on limitation of application of amnesty on torture offenders, by the time of writing this report, there are no the amendments on criminal legislation or draft legislation on this regard have seen so far.

Generally, the amnesty and pardon regulated with the Article 76 of the Criminal Code and administrated thru Article 536 Prime (1) of the Criminal Procedural code of Uzbekistan. There are no limitations on application of amnesty or pardon on perpetrators of torture or other crimes against humanity in CC. According newly adopted Regulation on Pardon from May 2018, even on lifetime custodies also exonerated.⁸

Although the State Report from 2018 to the CAT does not give any information about application of amnesty to the convicted persons under the Article 235, nonetheless, previous State Report from 2013 gave information about application of amnesty to those who committed torture, which demonstrates that courts are usually apply amnesty for torture crimes.⁹

⁶ Supreme Court Resolution 19.12.2003 available at: <http://www.lex.uz/docs/1453753>

⁷ Supreme Court Resolution 24.08.2018 available at: <http://lex.uz/docs/3896598>

⁸ Presidential Order № VII5439, from May 8, 2018.

⁹ Uzbekistan State Report provided to the CAT in 2013, according to the Para #73, during 2008-2011 the state has received 428 complaints on the use of torture: "22 criminal cases concerning 50 individuals were heard by the courts; convictions were handed down in 16 of those cases concerning 30 individuals, and 6 criminal cases concerning 16 individuals were halted on the granting of an amnesty. The courts sentenced 2 individuals convicted of crimes in this category to a fine; 3 individuals were sentenced to punitive deduction of earnings and 18 were sentenced to deprivation of liberty, while 12 were released under an amnesty."

Additionally, the current State Report shows that how few of them sentenced for the deprivation of liberty and it is not clear for how long?¹⁰ Also, the maximum penalty provided by the article 235 of Uzbekistan's Criminal Code is up to 10 years imprisonment, if the consequences of crime were grave, in the rest of case it is 3-5 years imprisonment. Such provisions are not adequate with the gravity of torture crime. Whereas, sanctions of the other serious crimes up to 25 years. Furthermore, the Part 6 Article 79 of the Criminal Code allows a person charged with any crime, from the time of its application, as to be completely cleared. This particular article can help to torture perpetrators to be cleared from such serious crime.

Habeas Corpus Implementation

The Committee recommends that the State party amend the criminal procedure code to provide judges with competence to apply less restrictive alternatives to detention during habeas corpus hearings, including guarantees of appropriate conduct that would allow the accused to be released pending trial. The State party should ensure in law and in practice that the right of detainees to a lawyer of their choice in habeas corpus hearings is respected. The State party should also ensure that all habeas corpus hearings are public and accessible to independent monitors. The State party should consider revising its legislation so that any detainee, whether detained on criminal or administrative grounds, must be brought to a habeas corpus hearing within 48 hours of deprivation of liberty.

In 2008 Uzbekistan introduced the Habeas Corpus institution. The way Habeas Corpus was introduced into Uzbek legislation had many shortcomings. Since then, it has not proved to be effective as an institution on preventing torture cases. The procedure for determining the application of pre-trial detention does not provide suspects or accused persons with a right to appeal the legality of their arrest. Furthermore, the suspect's statement on the issue of torture or inhuman and degrading treatment, or other unlawful acts or decisions of law enforcement officials before a judge is often rejected in the court on different basis.

Also, the judge deciding a pre-trial detention case could be the same judge that can hear the detained person's subsequent substantive hearing, as there are no limitations on this regard. Therefore, the impartiality and objectivity of the judge can be affected to the future trial. Furthermore, the review of detention in custody is held in a closed hearing and the participation of lawyers is not obligatory. The Part 7 of the Article 243 of the Criminal Procedural Code of the country still keeps the rule that allows to defense lawyer attendance, if the latter already participates in the case. The conditional nature of the presence of a defense lawyer violates the right to a defense.

¹⁰ Para # 60 of the Uzbekistan State Report to the CAT in 2019, available at: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2f5&Lang=en

Furthermore, according to Articles 238-240 of the Criminal Procedural Code of Uzbekistan, determining the issue of bail or other types of non-custodial conditions remains within the consideration of the investigator and prosecutor. Moreover, Article 217 (1) of the Criminal Procedural Code provides that a suspect or accused person's liberty may be deprived, without court scrutiny, by their compulsory placement by the prosecutor or investigator into a medical institution for psychiatric examination, and they only inform the court.

Independence of Lawyers

The State party should take steps to ensure the independence of lawyers and consider amending its legislation to ensure full independence of the Chamber of Advocates from the Ministry of Justice, in particular removing the authority of the Ministry to appoint and remove the Chair of the Chamber. The State party should consider amending the requirement that lawyers obtain recertification to practise every three years.

The role of defense lawyers remains extremely low in Uzbekistan and this is not only related to the complicated laws adopted in previous years, but also with prevalence of executive over the whole judicial process. The Advokatura – the Bar association in Uzbekistan, was known as a semi-independent, non-State organization for many years, though it was structurally fragile. In December 2008, the government issued a new law on the Advokatura, and created a single organization: The Chamber of Lawyers, under the Ministry of Justice. This law became a final strike on semi-independence of legal profession in this country.

Particularly, despite Article 1 of the Law on Advokatura referring to it as the voluntary unions of the lawyers, according to the amendments, Article 12 (1), all bars, bureaus and legal firms are now obliged to join one organization, the Chamber of Lawyers.

Moreover, according to Part 3 of Article 12 (3) of the Law on Advokatura, the candidacy for the chairman of the Chambers of the Lawyers to the lawyers' conference is selected and introduced by the Ministry of Justice.¹¹ Also, according to Part 5 of Article 12 (3) of the Law, the early dismissal of the chairman of the Chambers of the Lawyers, brought up by the Ministry of Justice to the Conference of the lawyers.¹²

Furthermore, many lawyers from previous Bars in the country, who had been practicing law for decades, had to take a mandatory new Bar exam since adoption of this law. Thus, enabling the government to disbar many independent lawyers, who have been taking politically sensitive cases before the courts, for instance, Ruhiddin Kamilov and Rustam Tulyaganov.¹³

¹¹ Part 3 of Article 12 (3) of the Law on Advokatura National Legal Database №03/18/497/2044, 12.10.2018 г.

¹² Uzbekistan's Cabinet of Ministers' Resolution # 112 "On Organization of Uzbekistan's Lawyers Chamber"

¹³ Human Rights Watch "No one left to Witness" http://www.hrw.org/node/103543/section/9#_ftn245

Also, lawyers fearing of being disbarred refused to protect suspects in sensitive cases, for example, according to the Ozodlik Radio lawyers refused to take the case of dissident in exile Nurillo Atahanov. He was arrested upon his return to Uzbekistan and charged with religious extremism. The similar situation was in the case of journalist Bobomurod Abdullaev, his first lawyer who met with him on 14 November 2017 refused to work on this case, two weeks later.

In February 2019, the Chamber of lawyers published the results of the survey conducted anonymously among 91% of attorneys practicing in Uzbekistan.¹⁴ The survey showed that the cases of law enforcement creating obstacles for lawyers to meet their defendants occurred in 461 instances during pre-investigation process (where torture mainly takes place). In addition, 328 respondents stated that they experienced problems meeting their defendants during the investigation time.¹⁵ Also, 597 interviewees complained about the absence of the separate room for meetings with their clients and 733 lawyers complained that they constantly face problems in investigation wards.¹⁶

The following numbers are quiet illustrative on the situation with the legal defense in Uzbekistan: 208 attorneys complained about humiliating and insulting behavior of law enforcement officers, while 209 persons stated about threats of physical violence from the later.

The General Procurator's office and the Supreme Court rejected the results of survey. It once again demonstrates the reluctance of executive to accept the necessity of making legal profession independent and the dependence of judiciary in this country. The General Procurator refused complaints of lawyers about obstacles; however, it is well known that this practice is widespread; for instance lawyer from Tashkent, Mr. Sergey Mayorov complained that he was unable to meet with his defendant and made four officials notices on this issue.¹⁷

Independence of Judges

The following amendments were introduced to the judges' appointment system. Initially judge is elected to the primary five-years term, second term lasts 10 years and the third terms are timeless and, the maximal age for the judge is set limited up to 70 years.¹⁸ In March 28, 2017 the parliament of the country is adopted a new law on: "Supreme Judicial Council of Uzbekistan." According to this law on the top of the Qualification Commission on Selection of Judges, a new organ was formed – Supreme Judicial Council of Uzbekistan.

It is meant to be an organ of judges' society and promoting independence of judiciary in Uzbekistan, however, structural creation and responsibilities of the Council do not help with these goals. For instance, only the president of Uzbekistan could bring its approved candidate to the nomination the head of the Council before the Senate. Taking into consideration of the Uzbekistan's lack of independents institutions, it is unlikely that the

¹⁴ Survey of lawyers <http://advokatnews.uz/xabar/985.html>

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ <https://rus.ozodlik.org/a/28893465.html>

¹⁸ Maximal age of being at duty is et for judges, available at:

http://www.norma.uz/novoe_v_zakonodatelstve/sudyam_ustanovili_predelnyy_vozrast_prebyvaniya_v_doljnosti

Senate would oppose to the president nominee.

Furthermore, the Article 7 of the law, Para (3)(4)(8) also displays more direct involvement of the Council's work to the president. Council has to prepare all necessary documents on candidates to bring up proposals to the president. These rules are applied mostly to the higher rank positions, which are only appointed positions. The head of the Council has certain rights to bring candidacy before the Council, and this only regarding of the other eleven members of the Council.

Also, the president appoints the Supreme Judicial Council's deputy and forms structure and population of the Council's executive body. Article 8 Para (2) of the law Executive Body of the Council's assigned by the president of Uzbekistan. At the same time, Article 8, Para (1) the Executive Body of the Council is accountable before the Supreme Judicial Council of Uzbekistan.

This particular contradictory rules would not guaranty the rule of law, independence of the judiciary from the executive, and contrary, it would allow the executive overcome the judiciary. Paradoxically, on March 29th, one day after the creation of this institution, the president appointed [with the approval of the of the Senate] Maruf Usmonov former governor of the Kokand was appointed as chairman of the Supreme Judicial Council. One year later, to this position was employed by the former Supreme Court head - Ubaydulla Mingboev, who had been working for many years during the Karimov's regime. With such leadership, it is unlikely that the Council work will be independent from the executive or would bring a new outlook towards reforms.

Human rights Defenders: Harassment, arbitrary imprisonment and alleged torture

The Committee recommends that the State party should:

(a) Recognize that human rights defenders are at risk and have been targeted for reprisals due to the performance of their human rights activities, which play an important role in a democratic society;

(b) Take all necessary measures to ensure that all human rights defenders are able to conduct their work and activities freely and effectively;

(c) Investigate promptly, thoroughly and impartially all allegations of harassment, arbitrary arrest, denial of adequate medical treatment and torture or ill-treatment of human rights defenders, including those listed above, prosecute and punish appropriately those found guilty, and provide the victims with redress;

(d) Release from detention human rights defenders who are imprisoned and in detention in retaliation for their human rights work.

Harassment against human rights defenders and activists continued in the last four years' period. Although with the new leadership the number of activists were released from prisons, new incidents of human rights defenders' prosecution still occur. The following activists were released: Azam Formonov, Mehrinisso and Zulhumor Hamdamova, Akzam Turgunov, and journalist Muhammad Bekjanov, political prisoners Samandar Kukonov and Murod Djuraev. In each mentioned case, the government claimed that any charges against them were connected with violations of Uzbek law.¹⁹ However, in reality they were persecuted for their activities.

Despite the government's statements that the human rights situation is cardinally improved in the last two years, the rights activists are still being persecuted for their work. For instance, in March 2017, human rights defender, Mrs. Elena Urlaeva was placed to forced psychiatric treatment, where she was kept there for 23 days and then released.²⁰ Also, independent journalist Aleksey Volosevich was arrested on 14th April 2017 for few hours and released for taking pictures of common people on streets of Navoi city.²¹

In September 2017, the journalist Bobumurad Abdullaev was arrested and severely tortured during detention time. He reported being beaten with plastic tube to his hand, back and legs. He was not allowed to sit or lay down for 6 days. He was beaten by computer cord to his back and head, this cord was called "reminder" and when Abdullaev refused to write what was requested, he was beaten. For three days the journalist e was placed in a single ward completely naked. During these three days he was refused food, was not allowed to sit or lay down. He also received numerous threats against his family. Abdullaev was refused access to his lawyers. Judge rejected allegations of torture as on March 15 at the trial of Bobomurod Abdullaev that "results of a complex medical examination" on Abdullaev had come back negative.²² While it should be noted that medical examination took place 6 months after the torture was claimed to happen. As a result of the international pressure, on 7th May 2018 Bobomurod Abdullaev was released from the courtroom.

In 2017 two activists Irina Zaidman and Maria Legler were detained and administratively arrested for up to 15 days on charges of organization of unsanctioned public protests.²³ Irina was collecting signatures for fair trial on the case of college boy severely beaten and later died. Maria Legler was collecting signatures on petition against cruel treatment of animals.

¹⁹ Para 13 of the government on its follow-up to the concluding observations on the fourth periodic report of Uzbekistan, 17 April 2014.

²⁰ Uzbek human rights activist E. Urlaeva released from psychiatric *hospital*, available at: <https://www.solidaritycenter.org/uzbek-human-rights-activist-elena-urlaeva-released/>

²¹ Harassment, detention and mass surveillance restricts Uzbek citizens civil and political rights; available at: <https://monitor.civicus.org/newsfeed/2017/05/05/harassment-detentions-and-mass-surveillance-continue-restrict-freedom-expression/>

²² <https://www.rferl.org/a/uzbekistan-journalist-on-trial-torture-medical-exam/29102538.html>

²³ Representative of GUVB confirms arrest of activists Zaydman and Legler , available at: <https://www.fergananews.com/news/27275>

Between August 28 and September 6, 2018 several Uzbek bloggers making their publications on the Facebook were administratively charged and arrested for up to 15 days.²⁴ These bloggers publications were related to the religious matters.²⁵

In 13 June, 2019, Steve Swerdlow, Human Rights Watch researcher was the target of an aggressive verbal attack while on a visit to Uzbekistan to investigate human rights abuses.²⁶ This attack was committed by a group of local bloggers. Also, a blogger and activist - Timur Karpov was denied a new foreign passport and banned to travel.²⁷ Uzbekistan announced to abolish its old Soviet rule of exit visa in January 2019, and issues a new foreign passport instead. Unfortunately, the government maintained its old rule of denying foreign passports to citizens, and still applies it against opposition and civil society members.²⁸

Violence against women

The State party should adopt specific legislative and other measures to prevent violence against women, including domestic violence. The State party should define and criminalize domestic violence and marital rape in its legislation and ensure that all women have access to adequate medical, social and legal services and temporary accommodation. The State party should ensure that mechanisms are in place to encourage women victims of violence to come forward and that all allegations of violence are promptly, thoroughly and effectively investigated, that perpetrators are held accountable and that women victims of violence obtain adequate redress including, inter alia, compensation and rehabilitation.

Up to the date of writing this report, domestic violence is not explicitly provided and prohibited by the legislation of Uzbekistan. In its responses to the previous concluding observations, the government stated that the law on domestic violence law is being drafted.²⁹ However, five years past since this statement the law is still not adopted.

For many years, authorities had denied the necessity of full legal prohibition of domestic violence, referring to the existing provisions in the Criminal Code of Uzbekistan. In 2018

²⁴ Uzbekistan arrests at least four bloggers over posts on religious matters, available at <https://cpj.org/2018/09/uzbekistan-arrests-at-least-four-bloggers-over-pos.php>

²⁵ Forum 18, Arrest of two bloggers http://www.forum18.org/archive.php?article_id=2471

²⁶ Effort to Intimidate Human Rights Watch in Uzbekistan; Attack Part of Wider Campaign to Smear Independent Groups <https://www.hrw.org/news/2019/06/14/effort-intimidate-human-rights-watch-uzbekistan>

²⁷ Podrobno.uz 14 June 2019 available at: <https://podrobno.uz/cat/obchestvo/v-uzbekistane-otkazalis-vydavat-zagran/>

²⁸ Even exit visa was abolished in January 1, 2019, all instructions adopted in 2015 and 2018 have oppressive rules like Para 39 of the new President order # PP 40-79 were adopted in December 2018, that can stop any activists or opposition members to travel without explaining them the reason of the ban.

²⁹ Para 185 - Information received from Uzbekistan on follow-up to the concluding observations, 2014

the World Bank published a report “Women, Business and Law, 2018” where Uzbekistan scored one of the worst in terms of protecting women from violence and harassment. On 2nd July 2018, the president of Uzbekistan issued decree on preventing domestic violence against women.³⁰ This document requested development of a draft law on domestic violence.

Finally, after fourteen years of the first attempt to draft the law on domestic violence, it was presented to public discussion in September 2018.³¹ The draft received numerous criticisms and recommendations as it lacked certain definitions and contained the number of rules that contradict to the Convention on Elimination of all forms of Discrimination against Women. Authorities were supposed to introduce amendments to the draft and present it to the Parliament in the first quarter of 2019. However, in April, the Women’s Committee together with the Ministry of Justice produced a new draft, renaming it as a law “On Violence against Women”.

While welcoming the decision of Uzbekistan government to adopt gender violence law, it should be emphasized that the domestic violence is not bounded by any factors, including person’s sex and age. Although general statistics around the globe show that women suffer from the domestic violence more, the law should not discriminate against also men/children, and give full protection against this crime to all. Moreover, boy children are excluded from the provision of gender violence law, as it only includes women of all ages, including those below 18.

While drafting this law the government is extensively making references to cultural norms and mentality. It is a contradiction from the several perspectives. Firstly, “cultural norms and mentality” are not defined elsewhere in legislation. Secondly, there is no specification on which ethnicity’s cultural norms are being referred. If assumed to be cultural norms and mentality of ethnic majority, then this law contradicts the Constitution of Uzbekistan and international norms Uzbekistan signed and are clearly discriminative against minorities. Most importantly, in many nations the traditions are often justify violence, as stated by United Nations Treaty Bodies, including Committee on Elimination of All Forms of Discrimination against Women as regards as Uzbekistan.³²

In addition, promoting Uzbekistan’s patriarchal cultural norms and values, in which woman’s main role is being good mother and wife, through the legislation gives wrong message to every actor involved in preventing and protection of women from domestic violence. It gives the notion that family should be saved as a primary value even if woman faces systematic violence in it. In the similar manner these values are being used in the policy of divorce reduction followed in Uzbekistan throughout 2017-2018, discussed below.

³⁰ Uzbekistan’s President Decree as of 2nd July 2018 <http://www.lex.uz/ru/docs/3804813>

³¹ The draft law on Prevention of Domestic Violence is published as of 25.09.2018 <https://www.gazeta.uz/ru/2018/09/25/violence/>

³² Uzbekistan is a signature to Convention on Elimination of All Forms of Discrimination against Women since 1995, and CEDAW states «In many nations, traditions and social and cultural stereotypes discourage women from exercising their right to vote. Many men influence or control the votes of women by persuasion or direct action, including voting on their behalf. Any such practices should be prevented» <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> Para 20 (C) ;

Divorce reduction and worsening of domestic violence victims

Throughout 2016-2019, Uzbek government is following the policy of divorce reduction. In January 2018, amendments, introduced to the Family Code of Uzbekistan (articles 40 and 218) made courts and civil registries legally bonded to refer couples applying for divorce to undergo hearings of the Mahalla Reconciliation Committee of their neighborhood before hearing the case.³³ We should mention that the Mahalla is determined to be a self-governing body of citizens formed on territorial basis. The Reconciliation Committee is a part of Mahalla administration and its members elected among citizens residing in the neighborhood and in fact, it acts as a quasi-judicial organ. What should be emphasized is that no training on human rights or principles of fair trials is provided for the Reconciliation Committee members, who are just usual neighbors of divorcing couples and judge them according to their own life experiences and knowledge, which is not a professional review of divorce cases. Thus no impartiality and objectivity is provided during the committee hearings. Many local and international human rights organizations, and some social networks have reported numerous cases when the Mahalla blames victims of domestic violence and forces them to return to abusers.³⁴

Moreover, it is well-known that divorce is the only way to escape from abusive relationships. Despite that, in the last three-years the government was trying to lower divorce rate statistics ate. In 2016, the mayor of the capital city Tashkent stated that he will publish the photos of divorcing couples on TV as the number of divorces is raising in Uzbekistan.³⁵ Although this decision was never implemented in practice, it shows the approach of authorities to sacrifice women's rights and well-being in order to have nice looking statistics on divorces. Later, in the similar manner, the Women's Committee reported that it managed to save almost 18 000 families from divorce in 2018.³⁶

It should be mentioned that the Women's Committee of Uzbekistan (WC) started playing more active role on violence against women after being almost silent for 24 years. Women's Committee is declared to be non-governmental, non-commercial organization, although it was initially formed by the order of the President of Uzbekistan back in 1994 and officially headed by the Deputy Prime Minister. Deputy governors head all WC's regional branches.

On its page, the WC reported that to the 11th January 2019, it had opened 137 shelters all over Uzbekistan. Compared to only two independent shelters run by real women NGO (one in Samarkand and one in Bukhara). The Women's Committee is monopolizing activities supposed to be carried out by genuine NGO, and at the same time window-dressing these activities. In October 2018, the Women's Committee reported opening one

³³ Family Code of Uzbekistan amended on 05.01.2018,
https://www.norma.uz/raznoe/zakon_respubliki_uzbekistan55

³⁴ Fergana.ru stated: Galina was requested to return to her husband when she applied for divorce at Mahalla reconciliation committee, although she applied for divorce as they were separated 6 years ago and at the time of applying she was pregnant from her new partner. Information from:
<https://www.fergananews.com/articles/10245>

³⁵ Sputniknews: The Photos of divorced couples will be published in TV , 20.10.2016
<https://uz.sputniknews.ru/society/20161020/3937956.html>

³⁶ Press-service release of the Women's Committee 14.12.2018
<https://www.facebook.com/womenuz/posts/746690805683475>

shelter in the capital city with the population of 2.5 million people.³⁷ By January this shelter was not operating and this was confirmed by the Women's Committee's Chair that there are no shelters in Tashkent and that they are planning to open them in the first quarter of 2019.³⁸ Hotline with the short number 1146 for domestic violence victims organized by the Committee proved itself ineffective as according to victims who tried it, women calling to the hotline have to wait long to get any response, it takes them several attempts to call to the hotline, there are no protocols on dealing with domestic violence victims and the helpline redirects to the Women's Committee helpless.³⁹

Following this policy is clearly not for the domestic violence victims' wellbeing. The laws on domestic violence and gender violence need to be adopted urgently and necessary measures to implement them in practice should be provided. The Government needs to revise the role of the Women's Committee – making it fully governmental and responsible for coordinating state policy on women issues and open the way to genuine and independent NGO and activists to combat domestic violence. International experience shows that this way is more effective and less costly.

Sexual violence and rape, committed in detention facilities

The Committee recommends that the State party ensure that thorough investigations are undertaken of all allegations of torture or ill-treatment, including sexual violence and rape, committed in detention facilities and other places of deprivation of liberty; that those found guilty are prosecuted and punished and that adequate redress and compensation are provided to the victims.

The cases of sexual violence against arrested and detained people were numerous reported by human rights defenders in Uzbekistan. However, authorities keep denying such cases as being unproven, unsustainable or could not find those committed it. As it happened in the case of rape in the custody of sister's Soatova: the investigation could not find a suspect as DNA of those whom they checked did not match with the DNA of Rayhon Soatova's baby girl.⁴⁰ However, simple calculations of Rayhon Soatova's pregnancy data shows that she was impregnated while she was under arrest and the government had failed to respond appropriately to her allegations of rape.⁴¹

In February 2016, four female Jehovah's Witnesses in Samarkand were questioned by senior police station officer Sanjar Esanov, and he threatened to "undress and rape her,

³⁷ The Women's Committee opened first shelter in Tashkent 04.10.2018 <http://www.news-asia.ru/view/uz/health/11573>

³⁸ See Commentaries of Women's Committee Chair at:

<https://www.facebook.com/2322710417953363/posts/2754393811451686/> 16.01.2019

³⁹ see commentaries of victims at <https://www.facebook.com/2322710417953363/posts/2754393811451686/>

⁴⁰ Information received from Uzbekistan on follow-up to the concluding observation, 2014 para 40-48

⁴¹ Rayhon was arrested on 9 May 2009 and on 17 December she gave a birth to a baby girl when she was on 28th week of pregnancy, see Ibid.

after which he will take her out of the room naked so the others could see.⁴² The fact that striping detained women as a usual practice for law enforcement proves the following case.

In July 2018, Radio Ozodlik disseminated a video taken by Uzbek law enforcement officer Sanat Umarov while he was interrogating a woman he accused in theft.⁴³ In his video Umarov forces women to strip and threatens her to bring naked to the marketplace. Later, this woman told journalists that he beat her before taking this video. It should be noted that at the same time, another woman's shouting is also heard on the video. Following broadcast of this video, authorities had to acknowledge torture of woman, and arrested Umarov. However, no measures were taken against other militia officers who witnessed the torture and silently allowed this to happen. Furthermore, concerning this particular case, there were allegations that another woman was also tortured, as in the background of mentioned video crying and screaming is heard. No investigation took place on this particular case.

On 21 November 2018, Sanat Umarov was sentenced to 6.5 years' imprisonment.⁴⁴ Several months later the same tortured woman (single mother of two children) was arrested for a theft and imprisoned for 5.2 years for stealing 165 000 uzbek soums and mobile phone with estimated cost 150 000 soums (altogether the damage she caused is estimated to be 37 US dollars).⁴⁵ For your reference that the crime of torture has almost the same punishment as a theft committed by a single mother with two underage children.

This case forced authorities to acknowledge torture publicly for the first time in the history of Uzbekistan as a sovereign state. While in the vast majority of cases courts overrule complaints on torture, as it was in the case of Umida Uzakova. She complained to the court that she was forced to strip and threatened by rape with the baton but judge declined it as unsustainable.⁴⁶ This case is a proof of what human rights defenders had been raising for many years: torture is a routine practice in the ways that it had been normal for police officer to strip women in front of his colleagues and no one would intervene, report, or interrupt this process. It proves that this violence was a part of the law enforcement daily life.

Situation with NGO

It is well-known that civil society organizations and activists are the source of reliable and impartial information in any country. If government wants to hide its human rights violations it shuts down independent voices.

Unfortunately, the new government has not provided a good atmosphere for freedom of civil society so far. All oppressive laws against the NGOs adopted by the Karimov's regime during the 2004-2009 years are still in force.⁴⁷ As we observed for many years,

⁴² Forum18 Uzbekistan Religious Freedom Survey, September 2017

http://www.forum18.org/archive.php?article_id=2314

⁴³ BBC Uzbek article on torture video, July 2018; <https://www.bbc.com/uzbek/uzbekistan-44726256>; more information on video https://www.youtube.com/watch?v=S_ug6tpUoDI

⁴⁴ Kun.uz Sanat Umarov Sentenced for 6.5 years 21.11.2018 <https://kun.uz/uz/news/2018/11/21/sanat-umarovga-sud-ukmi-ukildi>

⁴⁵ Kun.uz Tortured woman was imprisoned. 10.05.2018 <https://kun.uz/81799933>

⁴⁶ BBC Uzbek article on torture video, July 2018; <https://www.bbc.com/uzbek/uzbekistan-44726256>; More information on this case is available here: <http://enews.fergananews.com/news.php?id=3627&mode=snews>

⁴⁷ Since 2003, government introduced numerous legal acts taking the NGO operations under the full control

according to the old government they were more than 2000 NGOs acting in Uzbekistan. The same rhetoric we observe from the new government statements, which quite changed the numbers from 2000 to 9000. In reality, there are very few real independent NGOs and activist's left in the country.

Indeed, the government welcomes foreign educational NGOs and schools in the country. At the same time, it adopts strict and cumbersome rules for operation of international and local NGOs. Registration of NGO still has permissive character in violation of International Covenant on Civil and Political Rights (ICCPR), to which Uzbekistan is a State party. For example, Article 239 of the Administrative Liability Code (Administrative Code) of Uzbekistan charges non-governmental organization for working as an NGO without state registration a penalty from 15 to 30 minimal monthly wages.

Likewise, according to the Article 202 -1 of the Administrative Code, involving others to not registered NGOs is illegal and punishable by a fine ranging from fifty to one hundred minimum wages or by administrative arrest of up to fifteen days. Also, under the Article 216-(1) of the Criminal Code for the participation on prohibited illegal groups (NGOs), at least 3 years imprisonment (previously it was 5 years).⁴⁸ In such atmosphere, no NGO is able to conduct independent and unbiased visits to prisons, provide legal aid to victims of torture, rehabilitation services and etc.

Furthermore, on 4 May 2018 President issued a order (# YII-5430) on enhancing civil society on democratic changes of the country. We should say that there are slight changes on NGO law introduced by this degree. At the same time, the article #12 of the Decree calls for identification of illegally working NGOs and punishment of such. In addition, in order to implement article #12 of the presidential Decree from 4 May 2018, the Cabinet Ministers issued Resolution #854 on 12 October 2018. This resolution gives rights to Ministry of Justice to collaborate with MVD [Ministry of internal Affairs] and act as watchdogs for local, international, and foreign nongovernmental non-commercial originations, and religious organizations, and to punish NGOs that work without official registration. This is clearly violation of article 22 of the International Covenant on Political and Civil Rights.

of authorities. In particular, it introduced amendments allowing to control foreign funding of NGO, it could simply freeze organizations funds and send them back to donors. Moreover, majority of foreign donors were forced to close their offices in Tashkent. Human rights organizations like Human Rights Watch and Freedom House were suspended of their registration. Later it introduced legislation controlling NGO publications and activities.

⁴⁸ Article 216 (1) of the Criminal Code of Uzbekistan, adopted in 1994.

Recommendations

Bring the definition of torture under the full compliance with article 1 of the Convention against Torture;

Remove torture related crime from the list of acts eligible for amnesty;

Request judges to evaluate the legality of detention, habeas corpus should not be limited by the right to choose the measure of restraint, but also look whether the person is detained lawfully and hear complaints on torture.

Provide independence of judges and lawyers, abolish the system of regular examination for attorney lawyers and cancel obligatory membership in the Chambers of Lawyers.

Adopt the law on domestic violence along with gender based violence law. Introduce comprehensive system of responding to domestic violence cases. Provide rehabilitation for domestic violence victims. Introduce the system of protective orders.

Women's Committee of Uzbekistan should be given governmental status and become national policy provider officially. Women's Committee of Uzbekistan should provide space for other women NGO to grow and act without monopolizing services, which in turns proved ineffective as they do not have capacity, motivation and people to act as a real independent NGO.

Government needs to amend the system of NGO registration from permissive to notification character. Abolish the requirement to seek the permission of Ministry of Justice before applying to funding. Allow foreign donors to work freely in Uzbekistan. Register international human rights organization.