

# UZBEKISTAN

## NGO REPORT

### On the implementation of the ICCPR (Replies to the List of issues)

NON EDITED VERSION

**Bureau of Human Rights and Rule of Law – Uzbekistan**

**Mothers Against Death Penalty and Torture**

**Uzbek – German Forum for Human Rights**

**CPTI**

**Women’s Fund for Women**

*Tashkent, Geneva, February 2010*

With the support of :

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Centre for Civil and Political Rights

– CCPR Centre



## LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH THE CONSIDERATION OF THE THIRD PERIODIC REPORT OF UZBEKISTAN (CCPR/C/UZB/3)

Constitutional and legal framework within which the Covenant and the Optional Protocol are implemented, right to effective remedy (art. 2)

1. *Please provide examples of when Covenant provisions have been invoked directly or indirectly before or by the courts of the State party, and clarify whether the Covenant is directly applicable as the law of the land (State report, CCPR/C/UZB/3, paras. 135 and 158).*

To the date Uzbekistan has ratified more than 70 International treaties.<sup>1</sup> All international treaties and agreements, including those regarding criminal law, reach their goals only when they are implemented fully, and in good faith, by all the agreeing sides. Without implementation of these agreements fulfillment will remain only on paper. Efforts must be made to realize international laws into actions and to implement the agreed norms into practice. In other words, it is necessary to guarantee implementation the norms of international laws on a national level.

The absence of examples of court decisions directly referring to the Covenant provisions is generally explained by the lack of effective implemented mechanisms or direct application of International Covenant on Civil and Political Rights at national level. The place of the international law in domestic legal hierarchy is not clear in Uzbekistan. The Law “On Normative Legal Acts” states the legal hierarchy in the article 5 with no place for international law:

- a) Constitution of the Republic of Uzbekistan;
- b) Laws of the Republic of Uzbekistan;
- c) Resolutions of Chambers of Oliy Majlis of the Republic of Uzbekistan;
- d) Decrees of the President of the Republic of Uzbekistan;
- e) Resolutions of the Cabinet of Ministers of the Republic of Uzbekistan;
- f) Acts of ministries, state committees and agencies;
- g) Decisions of local governments.

Thus the Constitution of Uzbekistan, adopted in 1992, is the country’s highest-ranking legal authority. All laws and normative acts must comply with the Constitution. Although, the Parliament passes the laws, the Constitution gives the President the right to issue directives

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<sup>1</sup> REGNUM. “Uzbekistan has ratified more that 70 International Treaties.” October, 2008.  
[www.regnum.ru/news/1097213.html](http://www.regnum.ru/news/1097213.html)

and executive orders, which are mandatory within the Republic's territory. The government of Uzbekistan also issues mandatory directives and orders.

The Preamble of the Uzbek Constitution fairly mentions the international law saying that: " ... recognizing priority of the generally accepted norms of the international law..." Although the preamble is a part of the Constitution, one can claim that the Constitution's preamble is no more than a declaration. Furthermore, the Law on Normative Legal Acts<sup>2</sup> - the Article 19 (4)<sup>3</sup> clarifies that preamble of any normative legal act shall not be included the normative instructions. Moreover, according the Article 19(5) all laws the normative orders have to be expounding on separate articles, with a serial number.

Therefore, the Constitution does not unequivocally state that ratified international agreements have precedence over national law in case of contradiction between the two. In practice, the absence of such a principle has led to preference being given to national law over international law.

Moreover, there is a national "Law on International Treaties," of December 22, 1995, which also, unfortunately, lacks distinct rules describing the place of international law in the Uzbek hierarchy of legal authority.

In practice judges in adopting decisions refer only to the specific provisions of Codes, Laws and resolutions of Supreme Courts. References to the Covenant and other international treaties by lawyers are also not welcomed by judges and there are cases when judge called lawyer to stop demagogy.

As a result, if international laws are not incorporated into national law, then investigators, prosecutors and judges are not required to consider international laws in their decisions. Consequently, the ratified international agreements have no power and are not implemented.

2. Please describe the procedures in place for the implementation of the Committee's Views under the Optional Protocol. Please also indicate what measures have been taken by the State party to fully implement the Committee's numerous Views under the Optional Protocol, in particular with regard to Communications No. 915/2000, Sultanova v. Uzbekistan, No. 1017/2001 & 1066/2001, Strakhov, Fayzullaev v. Uzbekistan, No. 1043/2002, Chikunova v. Uzbekistan, No. 1041/2002, Tulyaganov v. Uzbekistan, No. 1071/2002, Agabekova v. Uzbekistan, and No. 1140/2002, Khudayberganov v. Uzbekistan. In view of the fact that the Committee considered the State party's replies unsatisfactory with regard to Communications No. 1150/2002, Uteev v. Uzbekistan, No. 917/2000, Arutyunyan v. Uzbekistan, No. 931/2000, Hudoyberganova v. Uzbekistan, and No. 911/2000, Nazarov v. Uzbekistan, please indicate the additional steps taken for their implementation.

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<sup>2</sup> [http://www.base.spinform.ru/show\\_doc.fwx?regnom=780&page=1](http://www.base.spinform.ru/show_doc.fwx?regnom=780&page=1)

<sup>3</sup> Ibid

- a) The mechanism of implementation of the Committee's Views under the Optional Protocol is not developed.
- b) During the reporting period none of the recommendation was implemented by the Government of Uzbekistan:

- **№915/2000, Sultanova v. Uzbekistan:** reparation is not paid out, the place of burial is still kept secret, death certificate was received in 2008.

- **№1017/2001 и №1066/2001, Strahov, Fayzullaev v. Uzbekistan:** reparation is not paid out, the place of burial is still kept secret, death certificates were not issued;

- **№1043/2002, Chikunova v. Uzbekistan:** reparation is not paid out, the place of burial is still kept secret;

-**№1041/2002, Tulyaganov v. Uzbekistan:** reparation is not paid out, the place of burial is still kept secret;

**№1150/2003, Uteev v. Uzbekistan:** reparation is not paid out, the place of burial is still kept secret;

**No. 911/2000 Nazarov v. Uzbekistan:** reparation is not paid out, commutation of the sentence was not done;

**№ 917/2000, Arutyunyan v. Uzbekistan:** reparation is not paid out; commutation of the sentence was not done;

In violations of the United Nations HRC procedures the following persons were executed while their individual complaints were under revision of the Committee:

- 1) **№ 1162 / 18.02.2003 Ismailov and Babajanov** – executed in May 2003;
- 2) **№1017/2001 и №1066/2001, Strahov, Fayzullaev** – executed in April-May 2002;
- 3) **№ 1280/ 6 May 2004 Akromhodja Talipkhodjaev** – executed on March 1 2005;
- 4) **№1150/07 January 2003, Uteev** – executed in May 2003;
- 5) **№ 1245/2004 Kupalov Artik Saidovich** – executed on January 13, 2004
- 6) **Mahmudov Atabek Yuldashevich, 1973:** sentenced by Tashkent city court on 19.05.2003; UN intervention **№ 1215/2003, secretly executed in Tashkent prison on 21.11.2003**
- 7) **Madrahimov Jasur Mirzakarimovich 1982;** sentenced by the Supreme Court of Uzbekistan on 09.05.2002. UN intervention on **24.02.2004 № 1248/2004, secretly executed in Tashkent prison on 04.03.2004;**
- 8) **Yusupov Bahtiyar Husanovich 1965;** sentenced by the Supreme Court of Uzbekistan on 09.05.2002. UN intervention **24.02.2004 № 1248/2004, secretly executed in Tashkent prison on 04.03.2004;**
- 9) **Sunnatov Israel Ismatdinovich 1972;** sentenced by Samarkand Regional Court on 14.08.2003, UN intervention **10 May 2004 № 1282/2004, secretly executed in Tashkent prison on 19.05.2004;**
- 10) **Kuldashev Alisher Amankeldievich 1972;** sentenced by Jizzah Regional court on 26.09.2003; UN intervention **18 May 2004 № 1284/2004, secretly executed in Tashkent prison on 19.05.2004;**
- 11) **Jumaev Yusuf Ergashevich 1982;** sentenced by Surhandarya Regional court on 28.04.2003; UN intervention **19 July 2004 № 1301/2004, secretly executed in Tashkent prison on 10. 08.2004**

- 12) **Karamu Azizbek Ahmadjanovich 1979**; sentenced to death penalty by the Supreme Court of Uzbekistan on 16 February 2004; UN intervention **№ 1294/2004 UZBE (56) 03.06.2004, secretly executed in Tashkent prison on 10.08.2004**;
- 13) **№1170/ 15.04.2003 Mirzaev Muzaffar** – executed in **May 2003**;

3. Please indicate whether the Commissioner for Human Rights (Ombudsman) of the Oliy Majlis is a national human rights institution in compliance with the Paris Principles (General Assembly resolution 48/134, annex). Please also explain whether all the recommendations regarding individual complaints adopted by the Commissioner have been fully implemented. Does the State party intend to strengthen the mandate of the Commissioner, in particular concerning the follow-up to recommendations regarding individual complaints? (State report, paras. 141, 169-171, 333 et seq.).

Since the revision of the last report to the UN Human Rights Committee the activities of the Uzbek Ombudsman remained pro-governmental, declarative and insignificant to human rights protection.

The Authorized Person of Oliy Majlis on Human Rights (Ombudsman) is elected among members of Parliament for the term of five years by open voting and plain majority of votes, and must then resign from his/her political mandate. The candidate for the position of Authorized Person on Human Rights is introduced by the President of Uzbekistan.

The electoral framework has not significantly improved and continues to fall short of OSCE commitments and the current political spectrum does not offer the electorate a genuine choice between competing political alternatives.<sup>4</sup> All parliamentary political parties stated their support for the government and defined their role as constructively supporting authorities' efforts.<sup>5</sup>

None oppositional parties such as: Birlik (Unity), Erk (Liberty), Ozod Dekhon (Free Peasant Party), and the Birdamlik (Solidarity) opposition movement have been registered and allowed to offer candidates in the Uzbek Parliamentary elections. As a result Uzbekistan Parliament represented by political parties, which are loyal to the executive branch of power and working in line with the policies of the current government. Thus Uzbekistan Ombudsmen, which elected among loyal to the executive Members of Parliament is also dedicated to current regime rules.

In April 2009 Senate of Uzbekistan adopted amendments to the legislation related to the activities of Authorized Person of Oliy Majlis on Human Rights broadening her authorities and despite this Ombudsmen has not taken any significant step on human rights protection.

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<sup>4</sup>OSCE/ODIHR Needs Assessment Mission Report 2009  
[http://www.osce.org/documents/odihr/2009/11/41230\\_en.pdf](http://www.osce.org/documents/odihr/2009/11/41230_en.pdf)

<sup>5</sup> Ibid

Activists, defenders, independent journalists, and dissidents still detained for political reasons have not benefited from the mandate of the Uzbek Ombudsman.

4. Does the State party intend to hold an independent investigation, with the inclusion of international observers, into the alleged extra-judicial killings and excessive use of force by law enforcement officials in Andizhan in May 2005?

In May 2005, the government used armed forces to suppress a massive public protest; Uzbek troops opened fire on thousands of unarmed protesters. Independent sources claim that more than 700 people were killed and hundreds of others fled the country to Kyrgyzstan seeking asylum. According to the Uzbek government, Islamic extremist groups such as the Islamic Movement of Uzbekistan, Hizb ut-Tahrir (HT) and one of its branches, Akromia, were to blame<sup>6</sup>, and only 187 people were killed.

The Uzbek government refused to authorize an independent international investigation of the alleged killing of numerous unarmed civilians and others during the violent disturbances of May 12 and 13, 2005.<sup>7</sup> Several attempts by the international governmental and non-governmental organizations have been rejected to investigate the events happened in Andijan in May, 13, 2005 in Andijan. There are several credible reports have been accomplished outside of Uzbekistan by the inter-governmental organizations such as: OSCE, Office of the High Commissioner for Human Rights and international NGOs' including the Human Rights Watch, Amnesty International. Therefore, the killings in Andijan in May 2005 have not been effectively investigated and the perpetrators continue to enjoy total impunity<sup>8</sup>.

Counter-terrorism measures, public emergencies and respect of Covenant rights

5. In light of the Committee's previous recommendation, how does the State party guarantee that its current laws on emergencies are in line with article 4 of the Covenant? Can individuals avail themselves of effective remedies during a state of emergency? Please also provide information on the status and the content of the new emergencies bill. (State report, para. 397, previous concluding observations, para. 13; cf. General Comment No. 29 (2001) on derogations during a state of emergency)

Item 15 of Article 93 of the Constitution stipulates that: the President shall: "have the right to proclaim a state of emergency throughout the Republic of Uzbekistan or in a particular locality in cases of emergency (such as a real outside threat, mass disturbances, major catastrophes, natural calamities or epidemics), in the interests of people's security. The President shall submit his decision to the Oliy Majlis of the Republic of Uzbekistan for

<sup>6</sup> Official statements about "extremist" responsibility occur in *The Andijan Tragedy*, a film produced by the Uzbek government. It was shown at the Hudson Institute in Washington, D.C. in May 2006.

<sup>7</sup> <http://www.state.gov/g/drl/rls/hrrpt/2008/sca/119143.htm>

<sup>8</sup> [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ICJ\\_Uzbekistan\\_HRC96.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ICJ_Uzbekistan_HRC96.pdf)

confirmation within three days. The terms and the procedure for the imposition of the state of emergency shall be specified by law". To the date no further legislation guaranteeing human rights during emergencies was adopted.

6. Please provide information on the State party's definition of "terrorist acts" and please clarify whether the legislation in this regard is in compliance with all the guarantees provided in the Covenant, in particular articles 2, 6, 7, 9 and 14. (State report, paras. 420-421, 439-440 and 446, previous concluding observations, para. 18)

As many experts have noticed that Uzbekistan uses the rhetoric of counter-terrorism or "war on terror" and counter-extremism as a justification for criminal prosecutions of those who peacefully oppose or speak out against the Government, for crimes of terrorism, extremism, subversion or anti-state activity<sup>9</sup>.

According to Article 155 section "a" of the Uzbek Criminal Code:

*terrorism, that is, violence, use of force, or other acts, which pose a threat to an individual or property, or the threat to undertake such acts in order to force a state body, international organization, or officials thereof, or individual or legal entity, to commit or to refrain from some activity in order to complicate international relations, infringe upon sovereignty and territorial integrity, undermine the security of a state, provoke war, armed conflict, destabilize a sociopolitical situation, or intimidate a population, as well as activity carried out in order to support operation of and to finance a terrorist organization, preparation and commission of terrorist acts, direct or indirect provision or collection of any resources and other services to terrorist organizations, or to persons assisting to or participating in terrorist activities.*

Such actions incur punishment ranging from imprisonment for eight years to the life imprisonment. The Uzbek definition of terrorism is extremely broad and gives the law enforcement great latitude to intimidate and threaten people just for speaking out in opposition to government policies, or practice its religious believe. Such wide range of conduct criminalized by the Uzbek Criminal Code, and its application in practice, could violate Uzbekistan's international obligations under the ICCPR, in particular Article 15(1), which protects the principle of legality of offences, and Articles 18, 19, 21 and 22, which protect freedoms of speech, assembly, association and religion or belief.<sup>10</sup>

The Uzbek government has already exploited this definition against people who preferred to practice Islam outside of the government-controlled mosques. Thousands of such people were jailed, and around six thousand<sup>11</sup> independent Muslims sit in jails today because they have refused to practice Islam in government controlled mosques.

The Uzbek government has already exploited portions of that definition—"acts which can destabilize the sociopolitical situation," for example—to detain and prosecute human rights defenders and journalists who gave interviews to the foreign media regarding the

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<sup>9</sup> [http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ICJ\\_Uzbekistan\\_HRC96.pdf](http://www2.ohchr.org/english/bodies/hrc/docs/ngos/ICJ_Uzbekistan_HRC96.pdf)

<sup>10</sup> Ibid

<sup>11</sup> <http://yaleglobal.yale.edu/content/uzbekistan-third-front-war-terrorism>

events in Andijan. For example, S. Zaynabiddinov, who is human rights defender from Andijan was arrested and later on convicted in close door trial<sup>12</sup> according to this article's section – "a" and "b"<sup>13</sup>, only because he gave an interviews for the international media (BBC) regarding the events on Andijan in May, 2005 and showed the bullets that had been used by the law enforcement towards the powerful crowd.<sup>14</sup>

Discrimination against women and domestic violence (arts. 2(1), 3, 7, 26)

7. Please describe the measures taken by the State party to combat the kidnapping of young women to force them to marry. Please also indicate whether polygamy is prohibited by law in all circumstances and provide information on the steps taken to implement the legal prohibition of polygamy (previous concluding observations, para. 24). Please also clarify whether the State party has amended its law on the minimum age of girls for marriage.

The Criminal Code of the Republic of Uzbekistan defines polygamy as "cohabitation with two or more women on the basis of one household". The definition of polygamy is controversial as in majority of cases interpreted by common people and law enforcement officers as living with two or more women in the same house, under one roof. Household both in Uzbek language and in Russian gives a meaning of joint conduct of work, cooking, joint spending family income.

The official position of Uzbekistan State presented during the consideration of State Report to the CEDAW Committee's session in January 2010, that if man cohabits with two or more women but does not share with them one household, then there is no proof of *corpus delicti* for polygamy. Delegation also reported that the case of polygamy is not considered if: "...a person who has not dissolved a marriage ceases to have marital relations and enters a new marriage."<sup>15</sup>

In the responses to the List of Issues of CEDAW Committee State denied the necessity to amend the definition of polygamy by this continuing the existence of legislation gap and giving the solid opportunity for polygamist marriages to flourish.

Besides, the majority of population accepts polygamy as an excuse and justification in current economic and social hardships of life, stating that men could provide financial protection over two or more wives and their children if they earn enough. Polygamy is not considered as amoral or a crime. Usually polygamous marriages are arranged through religious ritual "nikoh" which is not accepted for legal registration of such marriage in the official institutions. People try to justify polygamy through religion, stating that it is allowed

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<sup>12</sup> Fortunately, with international pressure he had been released in 2007.

<sup>13</sup> [http://www.osce.org/documents/odihr/2006/10/21559\\_ru.pdf](http://www.osce.org/documents/odihr/2006/10/21559_ru.pdf)

<sup>14</sup> <http://www.ferghana.ru/article.php?id=4168>

<sup>15</sup> Responses to the list of issues and questions with regard to the consideration of the fourth periodic report, CEDAW/C/UZB/Q/4/Add.1



in sharpie to have four wives if a man can provide equal economic and social protection for his wives and children. These two factors contribute greatly to the expansion of polygamy.

### **Early marriages**

The issue of discriminatory provision of Uzbekistan legislation on marriageable age set differently for boys and girls was raised twice in Concluding Observations of Committee on the Rights of Child in 2001<sup>16</sup> and in 2006<sup>17</sup>, Committee on Elimination of Discrimination against Women in 2006<sup>18</sup>.

Despite this, the legislation on the age of consent was not amended since the last State report and still kept at 17 for girls and 18 for boys<sup>19</sup> (which is discriminatory itself) with the possibility of lowering it to 1 year with the “valid reasons” in “exceptional cases” by the decision of the local governor, with no clarification on concept of the “valid reasons” and “exceptional cases”.

Existence of this legal norm encourages the spread of early marriages because State allows the possibility for girls to get married at the age of 16. In addition to this, there is a widely promoted idea of traditional culture and value stereotype women to the role a good housewife who should take care of home, children, elders and livestock thus families arrange marriages for their daughters at as early age as possible.

Such an attitude towards their daughters limits the possibilities for the later to get higher education, enjoy career and economic independence.

8. Please indicate whether the State party has adopted legislation, which specifically criminalizes domestic violence and whether victims have access to effective remedies, including shelters for them. If so, please provide detailed information on its scope and content. What are the measures taken by the State party to ensure the effective investigation, prosecution, and sanctioning of acts of domestic violence? Please also provide the Committee with the definition of rape in the Criminal Code and indicate whether it covers marital as well as non-consensual acts in the absence of resistance. In light of the Committee’s previous recommendation, has the State party carried out any public awareness and education campaigns? (previous concluding observations, para. 23)

The legislation of Uzbekistan does not specifically criminalize domestic violence and no definition for such is given in penal provisions.

It gives no terminology and definition to domestic violence thus creates ground for popular view that domestic violence is a private family issue rather than a criminal act. Such an attitude is very popular among law enforcement bodies itself, making them often ignorant to complaints on the violence in families and fail to take appropriate action,

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<sup>16</sup> Concluding Observations of the Committee of the Rights of the Child, 07/11/2001 CRC/C/15/Add.167

<sup>17</sup> Concluding Observations of the Committee of the Rights of the Child 02/06/2006 CRC/C/UZB/CO/2 as of 02.06.2006

<sup>18</sup> Concluding Observations of the Committee on Elimination of Discrimination against Women CEDAW/C/UZB/CO/3 7-25 August 2006

<sup>19</sup> Article 15, Family Code of Uzbekistan

preferring not to intervene into “family conflicts”. Even those women who decide to stop tolerating violence and seek for assistance from the law enforcement they are neglected and ignored by the later thus women are usually denied access to justice. These women are usually sent back to the mahhalla committee where they reside with the main purpose to get reconciliation with perpetrator and his family.

Since 2003 a group of lawyers and experts developed amendments and recommendations to be introduced to Codes of Uzbekistan for review of the parliament to introduce proper terminology and procedural norms for prosecution of a perpetrator. Since its submission the draft of amendments just stuck in the parliament, some confidential sources say that there is no will to adopt this document.

Criminal Code of Uzbekistan provides crimes against health in articles 104-111, giving gradation of the caused hard to health, while not criminal prosecution is provided in the cases of psychological or economic violence. *Marital rape* is not provided in the legislation as a separate crime and can be only qualified under the article 118 of Criminal Code – Rape

During 1998 – 2004 almost 20 crisis and trust centers were established with financial and methodological support of a number of international organizations in all municipal regions of Uzbekistan. These centers were the places where women could escape the violence and get professional legal and psychological aid, shelter and food for themselves and their children. In 2004 after NGO closure wave by the government almost all of them were forced to close. Currently only two centers and two shelters operate on the personal dedication and enthusiasm of a staff.

Since 2007 3 social adaptation centers for women were established under regional Women’s Committee (governmentally organized NGO with the power to deal on women’s issues in the country) with UNFPA technical assistance and funding. The government provided with free premises and initial salaries for administrative staff of the centers. Later the state funding for administrative expenses was seized, and UNFPA has no mandate for operational needs of these adaptation centers. So the functioning of the latter is under question. Some of these centers are now used not for primary goal as a rehabilitation centers rather they turned into the places for administrative gatherings of local government.

Right to life (art. 6)

9. Following the abolition of the death penalty, does the State party intend to commute all death sentences to other forms of criminal punishment? If so, please provide information on the review of these judgments, including what alternative forms of punishment are envisaged and which body is responsible for the decisions. How are the relatives and lawyers of the persons concerned informed of these commutations? Please also provide statistics on the imposition and execution of the death penalty during the reporting period until its abolition, including the number of prisoners sentenced to death, the number of persons executed and grounds for

conviction (State report, paras. 437-446, previous concluding observations, paras. 6-7). What steps have been taken by the State party to implement the Committee' previous recommendation regarding the information of the relatives of those persons who have been executed in the State party about their burial sites and the issuance of death certificates (previous concluding observations, para. 8).

Information regarding death penalty is a state secret and consequently, it is impossible to get data on the number of death penalty sentences, number of persons awaiting for execution and places of burial. In his report, the Special Reporter on torture and other cruel, inhuman or degrading treatment or punishment recommended: *"Relatives of persons sentenced to death should be treated in a humane manner with a view to avoiding their unnecessary suffering due to the secrecy and uncertainty surrounding capital cases"*. However, as it was stated above recommendations of Special Reporter, which were reflected and reinforced in further documents of UN human rights mechanisms (including the Human Rights Committee), were not fully implemented and information regarding death penalty still kept secret.

After the Law on the abolition of the death penalty came into force, the Supreme Court of Uzbekistan started to re-examine previously issued death sentences. However, this procedure was surrounded by an inexplicable curtain of secrecy. Although the legal application of this law was adopted by the Plenum of the Supreme Court of November 14, 2007, it was published only at the end of May 2008, five months after the law came into force. This delay prevented lawyers, members of the public and their relatives to access to the legal interpretation of this law.

Relatives, lawyers and even those being sentenced were not informed about the date of re-examination of life sentences. Those sentenced to death got to know about the change of their sentence only when they were transferred to another prison. The re-examination of sentences itself was carried out without the presence of defense lawyers assigned by relatives.

The law on the abolition of the death penalty ("On the introduction of amendments and additions to some legislative acts of the Republic of Uzbekistan in relation to the abolition of the death penalty" adopted in 2007) in itself has a clearly progressive tone. But legal enforcement commentaries of this law have contradictions. The section dealing with life sentences, for example, has a series of mutually opposing provisions that leave room for interpretation to judicial authorities.

The law does not clearly prescribe in which particular case, life sentence should apply, as according to the Supreme Court commentary on the law, **punishment in the form of a life sentence is given at the discretion of a court of law** after considering the personal characteristics of the defendant.

The section about the submission of an application for clemency states that the punishment of a prisoner condemned to life in prison, if given clemency, will be changed to long-term imprisonment (25 years). This provision does not consider the age of the condemned. The average life expectancy in Uzbekistan is 59.9 years. If a person condemned to life in prison

were 55 years old on the day of clemency and reduction of the term of punishment, then this person would actually be freed after reaching 80. But there are slim chances of this person surviving to this age. In prisons of Uzbekistan, especially in Zhaslyk, on the Us yurt plateau, people do not live that long.

In addition there are persisting problems in relation to sentences already executed. Information about the death penalty is a de facto state secret and because of this it is impossible to obtain data about the number of sentences issued, the number of people awaiting the implementation of punishment and the places of interment. Relatives of persons sentenced to death in Uzbekistan did not have access to the condemned since last meetings were not permitted by law. Until today many do not know the date of death of their relatives and cannot visit their graves because the place of interment is not published and is a state secret. Already in his report in March 2003, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment recommended: "...relatives of those sentenced to death have to be treated humanely so as to avoid causing them unnecessary suffering due to the secrecy and ambiguity surrounding the cases for which the death penalty is given..." In spite of these recommendations, no, if any information surrounding the death penalty is given. In addition, even the current law does not provide for access of places of interment of those executed in Uzbekistan or the notification of all relatives of those sentenced to death about the date of execution. Many still do not know what has happened to their relatives and when they were executed. This approach, illustrated demonstrated by many cases, should be considered in contradiction with the article 7.

Prohibition of torture and cruel, inhuman or degrading treatment, liberty and security of the person, and treatment of prisoners (arts. 7, 9, 10)

10. As previously recommended by the Committee, as well as the Committee against Torture, does the State party intend to bring the definition of torture in its Criminal Code in line with article 7 of the Covenant and article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (previous concluding observations, para. 9)?

Despite recommendations from the Committee against Torture and the Human Rights Committee, the State continues to fail to comply with the obligation to incriminate torture in line with the article 1 of the Convention against Torture. Article 26 of the Uzbek Constitution says: "Nobody can be subject to torture, abuse or other treatment that is cruel or degrading treatment."

The use of torture is such an everyday occurrence in the law enforcement agencies of Uzbekistan that the security structures, counting on their absolute impunity, continue to refine their torture system, which becomes more sophisticated and includes intimidating the relatives of the accused. Moreover, members of Uzbek civil society lack the access necessary to help torture victims. Torture is reported to be used at all stages of the Uzbek criminal process, starting from first moments of detention and of police interrogations.

Torture is particularly bad during the 72 hours pre-trial detention period, during which prisoners are usually kept incommunicado.

### **Definition of Torture**

Article 235 of the Uzbek Criminal Code defines torture and other cruel, inhuman and degrading treatment or punishment as: *Unlawful psychological or physical influence on the suspect, the accused, the witness, the victim or other participant in the criminal process or the convict serving a sentence, or their close relatives, by means of threats, causing blows, beating, torturing, causing suffering or other unlawful actions committed by an inquiry officer, investigator, prosecutor or other employee of the law enforcement organs or penal institutions, with the aim of obtaining any kind of information, confession of committing crimes, arbitrary punishments for committed actions or forcing to commit any kind of actions.*

This definition of torture does not contain a provision for using a third person as a method of pressure on an object of torture such as defined by Article 1 of the CAT. This definition gives law enforcement the power to use third persons to put pressure on detainees or defendants. Furthermore, unlike the definition in Article 1 of the CAT, the definition in Article 235 does not include a component for torture committed “with the knowledge or tacit approval of an official.” Article 235 is limited to crimes committed by law enforcement officials, while the CAT definition does not contain such a limitation and states that: “torture can be committed by any person in an official capacity and persons acting with the support or acquiescence of public officials.”<sup>20</sup> The term “unlawful” may be interpreted differently by law enforcement officers because it creates a question of what is the “lawful” psychological or physical influence on the suspect. As a result of these confusions, an explanation was adopted by the Supreme Court,<sup>21</sup> stating that the courts of the Republic of Uzbekistan have to use for their guidance the definition of “torture” provided in Article 1 of the Convention against Torture, which has primacy over national legislation. However, investigators and procurators refer to the Criminal Code and therefore it is extremely important to adopt changes and formulate article 235 of the Criminal Code in accordance with article 1 of CAT.

11. In light of numerous reports alleging torture and ill-treatment in detention, please provide additional information on the steps taken to prevent torture and other ill-treatment of persons deprived of their liberty, including persons in pre-trial detention. Please comment on reports according to which internal regulations give law enforcement officers wide discretion in the treatment of prisoners. Please provide further information on investigations of allegations of torture made by detained persons, including information on the number and nature of the sentences that have been handed down against perpetrators. Does the State party intend to establish an independent mechanism to investigate complaints of torture and other

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<sup>20</sup> Article 1 of the CAT.

<sup>21</sup> The explanations of the Supreme Court have a mandatory power over lower instance courts pursuant to the Law “On Courts” No. 162-II of December 14, 2000.

ill-treatment made by detainees? (State report, paras. 343-344, 448-543, previous concluding observations, para. 11)

Torture and ill-treatment remain systematic at all stages of detention in order to obtain forced confessions. Before formal charges are brought individuals will often be held in isolation and denied access to a lawyer, doctor and relatives. Detainees are often subject to torture or abuse during this initial period. There have been several incidents of individuals who were healthy at the time of arrest dying in custody, due to ill-treatment. The failure of the authorities to publicly condemn the use of torture and the continued use of forced confessions in the courts are major factors contributing to the continued and widespread use of torture.

***Conditions of detention in prisons and Prison Settlements (PS or Russian acronym - KIN)***<sup>22</sup>

Prison's facilities in Uzbekistan may be characterized as having inhumane conditions of detention. Due to the conditions of detention, imprisonment in itself could be considered as an ill-treatment. Moreover detainees are stripped of all rights. They have a limited access to medical care and medicine. Photo X-rays of lungs prescribed by health authorities once every six months are not carried out. The majority of prisoners suffer from various kinds of tuberculosis. Insufficient, meager diet without fats and severe climatic conditions worsen the already poor health of prisoners. The conditions at specific prisons are described below.

***UYa/64 KIN 33, KIN 49 and KIN 54 – Karsh (maximum security and minimum security prison's facilities):*** There is insufficient food, no access to medicine, no drinking water (prisoners drink salty water from a water pipe). Most prisoners are sick: there are various forms of tuberculosis, many patients with AIDS and HIV are not provided with fortified diet, nor do they receive additional fats or special preparations.

***UYa/64 KIN-38 - camp/town of Boca, Tashkent oblast, (camps/towns designated for prisoners spending their last year or two of imprisonment before being set free are considered the lightest form of imprisonment):*** There is no access to medicine. Prisoners are not given breakfast. At 7 am prisoners are driven to work on a cart that is chained to a tractor and that is unfit for transporting people. The workday lasts 12-13 hours. If a place is far from the location of the camp/town, then lunch is not given. Salaries are not paid so prisoners who have no relatives starve. Prisoners are placed in lockup even for small violations.

Examples: A prisoner working at the personal dacha of the director of UYa/64 KIN 38 as a stoker suffered from carbon monoxide poisoning and died but no one was punished for the prisoner's death. In 2007 a prisoner for whom hard labor was categorically contraindicated due to a severe case of tuberculosis suffered bleeding in his lungs as he was working and only afterwards was he brought to hospital in Buka. In the same year the director of UYa/64 KIN-38 severely beat a prisoner who was to be freed in 3-4 months

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<sup>22</sup> This section is based on information provided by Mothers Against Death Penalty according to interviews made with detainees, ex-detainees and relatives in 2005-2008. Prison settlements are divided into special treatment, maximum security, minimum security and camp/towns (least strict security).

after having served his time. After the beating, the prisoner was brought to hospital where he never recovered consciousness and died.

**UYa/64 MZHIEM -71 "Maxsus Izhro Etish Muassasi", Zhaslyk.** (*Special Treatment Penal Correction Facility No. 71 – Zhaslyk*): Unfortunately, it needs to be noted that after the re-examination of sentences, persons who had previously been sentenced to death were transferred to the new prison in Zhaslyk, built on territory adjacent to the then already existing Special Treatment Penal Correction Facility. Cruel conditions of detention and the climate in this ecological disaster zone turned the detention into a long and harrowing ill-treatment. This camp is located on the Ustyurt plateau, in the Kara-Kalpak mountains, Kungradsky region, which was a chemical weapons testing ground during Soviet times. The UN Special Reporter against Torture specifically recommended the closure of this camp, which more closely resembles a prison (in terms of detainment), because there are up to ten - twelve prisoners per room there. Prisoners are prohibited from speaking to each other. Walks are allowed once a day for one hour. The food is inadequate and of a low quality. Instead of grit they use the seeds of brooms to feed prisoners. Tuberculosis patients do not receive additional fats or sufficient nutrition. Water provided for drinking is salty and is inadequate. There are unsanitary conditions during bathing days when the heads and beards of up to 10 - 20 prisoners are shaved with one blade and the blade is washed in a pail of dirty water. There is no access to medicine. Photo X-rays of the lungs are not made. Prison authorities have recently refused to receive medicine from relatives to be passed on to prisoners. Many are sick of a severe form of tuberculosis. According to this facility's regulations, special treatment penal correction facilities are intended for highly dangerous habitual offenders who pose a danger to society to serve their sentence. Maximum and minimum security prison facilities do not provide for the confinement of prisoners in prison cells.

### ***Impunity***

Independent mechanism to investigate complaints of torture and other ill-treatment is not existent in Uzbekistan. The responsibility over investigation of cases of human rights violations by the law enforcement and other officials lies with Procuracy and other internal inspections within law enforcement. As it was mentioned earlier, Procuracy is huge state machinery with large scale of responsibilities as the concentration of many powers within one state agency gives it enormous weight compared to the whole judicial system.

Procuracy supervises the observations of human rights and to check upon the complaints over torture and ill-treatment and at the same time this State organ is responsible to carry out preliminary investigation of a wide range of crimes. Considering the fact the majority cases of torture and ill-treatment happens at the stage of preliminary investigation it is clear conflict of interests having one State organ officials potentially committing crimes of torture and investigating them.

According to the Written Replies of the State to the List of Issues, in 2008 Procurator's office received 104 complaints of cases of torture and only 9 criminal cases were opened against officers of Ministry of Internal Affairs, which is less than 10%.

Procuracy is responsible for preliminary investigation, representation of State interests in courts and in short, along with supervisory functions, the Procuracy carries out preliminary investigations of a wide range of crimes as well as represents the State in prosecution at judicial process. The concentration of many powers within one state agency gives it enormous weight compared to the whole judicial system.

### ***Lack of transparency***

Activities of Prosecutor, Ministry of Internal Affairs (MVD) and investigative departments of National Security Services (SNB) are not transparent and under no public control – these organs are not made accountable to public whatsoever. Absence of laws to regulate militia and SNB activities are leading to uncontrollable human rights violations by MVD and SNB officers. There are no Laws on Organs of Internal Affairs (MVD), on National Security Service, and On Operative-Investigation Activity.

Another factor contributing to the perpetration of acts of torture and ill-treatment is that Uzbek legislation does not currently guarantee detainees access to a doctor of their choice from in the first hour of their detention. In addition, examination and certification of injuries by certified and independent doctors is not ensured.

Accurate documentation of detainees state of health from the moment of detention until his/hers release is essential for the prevention of torture and to prevent impunity in cases where torture does occur.

### ***Detention Conditions***

Despite some improvements, prison conditions remained poor<sup>23</sup>. Detention conditions in Uzbekistan prisons can be characterized as inhuman, cruel, degrading treatment. Medical assistance is very far from being adequate, provided by legislation semiannual fluorography procedure does not take place in most of the cases; therefore most of prisoners suffer from tuberculosis. Medical personnel in prisons give an injection to the patients with the reusable syringes, which are in further causes spreading of different kinds of infections, in particularly hepatitis B. There are many cases when prisoners were infected with HIV or have serious oncological diseases and still kept in prison. Poor nutrition, hard climatic conditions worsen health of convicts.

Cruel, inhuman and degrading forms of punishments are still used in colonies and prisons convicts can be placed in a dark, solitary cell. Beatings and other physical mistreatment are widely in use in Uzbek prisons. For light infringements they force to clean the toilet or general cleaning or other dirty works: sometimes deprivation of meetings with family. Any admonition of prisoners will reflect on their decision of amnesty.

Most frequently reported ill-treatment in detention was:

- Placement in punishment cell with unbearable conditions
- Food deprivation
- Striping the detainee naked
- Rape

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<sup>23</sup> US State Department, Country Reports on Human Rights Practices: Uzbekistan, Bureau of Democracy, Human Rights and Labour 2008



- Denial of access to bathroom facilities
- Unavailability of sleeping places and linen
- Unsanitary wards of confinement
- Severe overcrowding and unacceptable shortage of space in wards of confinement per person in square meters
- Not notifying family members of the detention
- Insults
- Humiliation

*On May 4 2008, prisoner Oil Azizov died in a prison hospital in Tashkent after being transferred from Jaslyk prison in Karakalpakstan. His family reported that his body showed signs of torture, including bruising on his chest and swollen feet. Accounts differed whether Azizov died of torture or bronchitis due to the harsh winter conditions. Azizov was serving a 15-year sentence on charges of religious extremism<sup>24</sup>.*

12. Please provide more information on the establishment of a fully independent body to monitor places of detention (State report, paras. 549-551, 467). How can independent international inspection bodies, such as the International Committee of the Red Cross (ICRC), currently access places of detention and upon what conditions? (previous concluding observations, para. 17)

No independent body is entitled to monitor places of detention in Uzbekistan, the ICRC which has been recently resumed their monitoring.

13. Please provide further information on the 2008 law on habeas corpus, including whether it permits a detainee or an individual on his/her behalf to bring a petition challenging the lawfulness of the actual deprivation of liberty, as required under article 9 of the Covenant. Please also provide information on petitions brought under this law since its entry into force, including the outcome (State report, paras. 501-519).

Although introduction to Uzbekistan legislation the practices of habeas corpus is a positive amendment, the procedures it entails violate the article 14 of ICCPR on the fair trial procedure.

According to law there is no special judge for revision of cases on detention in custody. Judge deciding the case of pre-trial detention could be the same person who will further participate in the hearing of the actual case as there are no mechanisms avoiding it. In this scenario the impartiality and objectivity of judge can be affected in future trial.

Furthermore, judge can only decide on the following (article 243 Criminal Procedural Code of Uzbekistan):

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<sup>24</sup> Ibid

- On the application of pre-trial detention;
- Rejection on pre-trial detention;
- Prolongation of the length of custody for not longer than 48 hours for presenting additional proves on merit or demerit of the application of pre-trial detention.

The issue of other measures such as written undertaking on appropriate behavior; personal guaranty; guaranty of public association or personnel; bail; warship of juvenile supervision of command over servicemen remained under consideration of investigator and prosecutor (articles 237 and 240 Criminal Procedural Code of Uzbekistan).

The Article 243 section (6) of the CPC of Uzbekistan says: The petition on application of the pre-trial detention revised in the closed hearing within 12 hours since the moment of arrival of materials, but no later than the maximum length of arrest”.

Furthermore, Article 243 of the Criminal Procedural Code list the persons allowed to participate on the hearing on the revision of case on pre-trial detention, namely, prosecutor, defense lawyer, if the latter participates in the case and suspected or accused person. Therefore, the revision of cases on detention in custody is held in closed hearing and participation of lawyer is not obligatory.

The procedure of application of pre-trial detention (new law) does not provide suspects or accused with the right to appeal the legality of the arrest or bring in the issue of torture or inhuman, degrading treatment or other unlawful acts or decisions of law enforcement officials before the judge. Conditional nature of presence of a defense lawyer violates the article 14.

Moreover, the Article 217 section (1) provides that a suspect or accused liberty may be deprived by compulsory position into a medical institution for psychiatric examination by the prosecutor or investigator without court scrutiny. That breaches the rule of the Article 9(1) of the ICCPR.

The current legislation of Uzbekistan does not provide any legal standards for a judge to determine reasonableness of application of pre-trial detention. Judge is not obliged to weight evidences presented by the procurator or investigator and evaluate the lawfulness of the detention of the suspect. Procurators and investigators do not have any legal instructions and standards of evidences to be presented in order to apply detention in custody. Thus the actual lawfulness and legality of detention is not examined properly by judges. This violates the Article 9 section (4) of the ICCPR.

Partial introduction of habeas corpus practices had not changed the weight Procuracy in the criminal process. Procuracy is a part of law enforcement system, although stated to be independent, in practice heavily affected by the executive power as Procurator-General is appointed by the President of Uzbekistan.

The weight of Procuracy is provided by the concentration of a number of powers within this state organ, namely, Procuracy is responsible for preliminary investigation, representation of the State in prosecution at judicial process and supervision of protection of the rights and freedoms of citizens, the interests of society and the

constitutional order of the Republic of Uzbekistan<sup>25</sup>. Having the functions of supposedly three independent institutions makes Procuracy heavy state machinery affecting both courts and making the court hearing uncompetitive with defense attorneys.

14. The Committee has previously recommended that – in light of the excessive time (72 hours) before a detained suspect is brought before a judge - the State Party should ensure that a judge can timely review all detentions to determine if they are legal. From the report the Committee understands that no change has been made in relation to the 72 hours period. Please provide a reason for this. (State report, paras. 403 and 504-514, previous concluding observations, para. 14)

It is confirmed that no change have been made with regard to the time period of 72 hours during which a suspect can be detained without any appearance before a Judge.

15. Please provide further information on the availability of detention facilities for juvenile offenders, including separate detention centers for juvenile female offenders, and the conditions of detention in these facilities (State report, paras. 535-536).

In its written replies to the List of Issues, State reported about the existence of one colony for male juveniles where 13 to 21 years old underage persons are kept. However, according to Uzbek law the age of majority is attained at the age of 18. After this age person is considered as an adult. Consequently, in the juvenile prison persons below 18 are kept together with adults aged up to 21, which is a clear violation of both domestic and international legislation.

Development of Juvenile Justice in accordance with the international legislation is still being continued on the level of discussions, seminars and conferences. The cases of juveniles are still reviewed by the general jurisdiction courts. Children often not provided with adequate legal aid and face violations similar to adults.

In most IVS (detention centres), there is no special cell for minors, and the children are kept in the same cell as adults as well as no separate cell for juvenile female offenders. Cells are overcrowded, have insufficient lighting, no ventilation, and no heating. According to paragraph 13.4 of the Criminal Proceedings Code of the Republic of Uzbekistan, arrested juveniles should be kept separate from adults. But many times this regulation is not complied with and as a result children become subject to a negative influence and more likely to abuse from adults. Sometimes juveniles are kept in investigation solitary confinement cells separate from adults but their transportation to the investigation cite usually takes place in the company of adults.

Punishment in juvenile prisons is considered to be inhuman and degrading. Children are placed in solitary cell called karcer. This cell has an imitation of chair from cement

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<sup>25</sup> Article 2 of the Law “On Procuracy”

concrete and bed locked to the wall. In the night the guard is supposed to come and unlock the bed, there are cases when guard does not unlock the bed. The temperature in this cell during the winter times is colder than outside. Administration of juvenile prisons constantly beat children and use obscene language to children.

The forced labor is the most frequently used form of punishment in the all kind of governmental institutions: schools, universities, orphanages. This practice is widely used in juvenile prison which shows clear contradiction to the UN Rules on the Protection of Juveniles Deprived of their Liberty<sup>26</sup>.

Elimination of slavery and servitude and child labor (arts. 8, 24)

16. Please provide information on the status and content of the bill on trafficking in human beings (State report, paras. 481-482). What are the legal safeguards for the rights of victims of trafficking, including their right to assistance and rehabilitation? What steps have been taken by the State party to provide them with medical, psychological, social and legal assistance?
17. Please provide information on the effectiveness of the steps taken by the State party to enforce the legal provisions (Rights of the Child [Safeguards] Act of 2008) aimed at eradicating child labor, including very young children e.g. in the cotton industry (previous concluding observations, para. 25).

Freedom of movement and freedom of speech (arts. 12, 19)

18. Please provide more information, including statistical data, on rejected requests for exit visa made by citizens of the State party. Please explain how, in the State party's opinion, such an exit visa requirement is compatible with article 12 of the Covenant. Please also comment on reports according to which representatives of NGOs are frequently prevented from travelling abroad under this requirement (State report, paras. 570 et seq., previous concluding observations, para. 19). Please also provide information on the residence registration system (propiska) and its compatibility with

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<sup>26</sup> Paragraph 67 of the UN Rules on the Protection of Juveniles Deprived of their Liberty states "All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned. The reduction of diet and the restriction or denial of contact with family members should be prohibited for any purpose. Labour should always be viewed as an educational tool and a means of promoting the self-respect of the juvenile in preparing him or her for return to the community and should not be imposed as a disciplinary sanction. No juvenile should be sanctioned more than once for the same disciplinary infraction. Collective sanctions should be prohibited".

article 28 of the State party's constitution, as well as the Covenant. Please include information on the impact of this residence registration system on access to public services.

Constitution of Uzbekistan provided freedom of movement – Article 28 says: “Any citizen of the Republic of Uzbekistan shall have the right to freedom of movement on the territory of the Republic, as well as a free entry to and exit from it, except in the events specified by law”. However, both Article 12 ICCPR and the Constitution of Uzbekistan are openly violated by government by using the practice of residence registration and exit visa.

Uzbekistan government uses the system controlling the exit of its citizens from the country, introduced in 1995, the restrictions on the exit from the country consist of the requirement to obtain permission from the Ministry of Interior to leave the country for the period of two years.<sup>27</sup> After applying to the relevant organs of the Ministry of Interior and paying the fee, each application ID check with information centers of the Ministry and National Security Services. It is necessary to emphasize that the permission itself is of no significance for the law enforcement organs: no one can guarantee that a person obtaining such permission will not violate the law and depart later on. Besides that, a request for permission, as well as other useless administrative barriers, creates favorable grounds for the flourishing of corruption amongst public servants.<sup>28</sup>

The number of human rights defenders and activities were refused exit visas on the grounds of “inappropriateness” of travel, for detailed cases please see the report “On Laws and Practices of the Republic of Uzbekistan regarding the rights of citizens on free movement and choice of residence”.

Residence registration (*propiska*) technically looks like the seal in the passport of citizen, which identifies individual's permanent place of residence. Absence of the seal on permanent or temporary propisak leads to many undesirable consequences in non-emergency medical treatment, employment, housing, social welfare, services of kindergartens, etc.

It is particularly difficult to receive propiska in the capital of Uzbekistan – Tashkent, to do so citizens of Uzbekistan coming from other than Tashkent regions must obtain special permission from the Commission under the Local government of the capital. The practical purpose of this Commission is to control the flow of people migrating to the capital and reduce urbanization. Resolution on permission to permanently reside in the capital is associated with heavy costs and therefore, migrants from the regions of Uzbekistan live and work illegally in the capital. According to the survey, obtaining

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<sup>27</sup> The order of exit from the country for the citizens of the Republic of Uzbekistan” (Annex No. 1) endorsed by the Resolution of the Cabinet of Ministers No. 8 of January 6, 1995. Instructions “On the procedures of issuance by the organs of interior of the Republic of Uzbekistan of the permission to exit the country by the citizens of the Republic of Uzbekistan” were registered by the Ministry of Justice under No. 760 on July 1, 1999.

<sup>28</sup> OMCT and Legal Aid Society, of Uzbekistan: “Denial of Justice in Uzbekistan” February 2005

registration or temporary residence registration seems to be a virtually insoluble problem for 66.1% of men and 43.5% of women in Tashkent informal labor market.<sup>29</sup>

Living and working illegally in Tashkent have risk of being accused of infringement of passport regime and other laws. Law enforcement officers on the regular basis conduct check-ups in the places of gathering for mardikors, temporary living places and work places. Migrants are either forced to pay bribes or called for administrative responsibility or placed in detention centers. Before holidays elections or other important events law enforcement conduct a total wipeout of people without Tashkent propiska. Forceful eviction upon the grounds of violations of the passport regime (lack of Tashkent propiska in the passport) is a legally endorsed practice, against which complaints to any judicial organs would deem useless.<sup>30</sup>

19. Please comment on reports regarding the persisting harassment of journalists in the exercise of their profession (previous concluding observations, para. 20), and the tight government control of non-public, i.e. independent media. Please also comment on reports according to which human rights defenders are systematically prosecuted and imprisoned.

The local mass media are under government control, journalists are too afraid to work independently and most of them act as government propagandists. It is almost impossible for independent journalists to work in Uzbekistan. All Internet sites questioning or criticizing the present political regime and leadership are blocked by local service providers. The government Decree N33 24.02.2006 prohibits journalists to work for any foreign media organization without accreditation from Ministry of Foreign Affairs, which is nearly impossible to obtain. Many journalists have had no choice but to flee their country in the face of threats to their freedom and their lives; and increasing number of those who remain are in prison.

Repression against independent media has intensified after the Andijan's events in May 2005. In the wake of this massacre the offices in Uzbekistan of the BBC, Radio Free Europe/Radio Liberty, IWPR, Freedom House and other international media organizations were shut down. The repression against journalists has become even worse following the decision by the European Union to lift its mild sanctions against Uzbekistan in October 2008.

Eight journalists have been arrested in the year 2008, and in total there are at 14 independent journalists in Uzbek jails. Uzbekistan's judiciary is neither independent nor fair-minded, and in all of the cases against journalists with which we are familiar, there has barely been a pretense of having a fair trial.

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<sup>29</sup> Labour Migration in Uzbekistan: Social, Legal and Gender Aspects", UNDP and Gender Program of Swiss Embassy, Tashkent 2008

<sup>30</sup> OMCT and the Legal Aid Society, "Denial of Justice in Uzbekistan", February 2005

One of the latest victims of this campaign was Umida Akhmedova, a famous Uzbek photographer and filmmaker, who was convicted on charges of slander and “insulting the Uzbek people” because of a book of photographs she published in 2007, and a documentary film produced in 2008.

Ahmedova's book, *“Women and Men: From Dawn Until Dusk”*, portrays rural Uzbekistan and Uzbek traditions, focusing on gender inequality. Her film, *The Burden of Virginity*, explores the social consequences for brides who are suspected of not being virgins. A so-called “expert panel” convened by Uzbek prosecutors concluded that “Ahmedova's work is insulting to the people of Uzbekistan and portrayed Uzbekistan in a negative light to Western audiences.” She is now facing the likelihood of three years in prison, although her trial has not yet been scheduled.

On January 14 2010, six journalists—Vastly Markov, Sid Yanishev, Abdumalik Boboev, Khusniddin Kutbiddinov, Marina Kozlova, and Alexey Volosevich—were summoned to the state prosecutor’s office to give an explanation about their professional activity. Such actions by the authorities are a clear form of intimidation amounting to a threat to these journalists to stop their professional activity.

### ***Imprisoned Independent Uzbek Journalists***

***Khayrullo Khamidov***, a famous sports commentator and radio talk show host, was arrested on January 21, 2010, on the charges of establishing and participation in religious organization. If found guilty he faces up to five years in prison. We believe that Khamidov’s arrest is politically motivated and can be attributed to official displeasure regarding a radio programme Khamidov hosted in September 2009 during which he made reference to the teachings of the well-known imam Abduvali Mirzoev, who disappeared in 1993.

***Dilmurod Saidov***, an independent journalist, was sentenced to 12 years in prison in July 2009 on charges of extortion and forgery, charges for which only the flimsiest evidence was presented during his trial. Saidov was an outspoken critic of human rights situation in Uzbekistan and came under severe pressure by the authorities after publishing critical articles in newspaper *Advokat Press* (“The Lawyer’s Press”), which was shut down shortly after these articles were published. Last year, his wife and six-year-old daughter were killed in a car accident while on their way to visit him in prison.

On February 26, 2009, the authorities sentenced to prison five journalists writing for the magazine *Imroq*, which is officially registered in Uzbekistan. According to the non-governmental Association for Human Rights in Central Asia, the journalists—***Ravshanbek Vajoev, Abdulaziz Dadakhanov, Botyrbek Eshkuziev, Bakhrom Ibragimov, Davron Kobilov*** – are now serving prison terms ranging from 8 to 12 years on charges of “authoring and spreading materials which pose a threat to state security” and “setting up a religious and extremist organization.”

***Saidjahon Andurakhmanov*** is an independent journalist who previously wrote several Internet publications from his home in his native Karakalpakstan, a part of Uzbekistan, which has the status of an autonomous republic. Andurakhmanov was sentenced to 10

years in prison on October 10, 2008, after being arrested on charges of drug possession. According to the independent news agency Uznews.net, police stopped his car and planted drugs in the trunk of his car.

**Djamshid Karamu**, a former writer for the Institute for War and Peace Reporting (IWPR), a UK-based non-profit media organization, was sentenced to compulsory psychiatric treatment in the hospital on September 12, 2006. He is still detained there despite being and always having been in good mental health. His family is not allowed to visit him.

**Ortiqali Amazon**, a former correspondent for the state newspaper Qishloq Haiti (Village Life), was sentenced to five and a half years in prison in 2004 for publishing several articles criticizing local governments for mismanagement. He remains in prison.

**Gairat Mehliboev**, an independent journalist, was sentenced to seven years in prison on February 18, 2003 for writing a political commentary in the newspaper Hurriyat in which he debated the ways to achieve social justice by introducing western democracy or Islamic justice system. According to the Real Trade Union of Uzbek Journalists, his whereabouts are still unknown.

**Mukhammad Bekjanov**, the editor of opposition newspaper Erk, along with Yusuf Ruzimuradov, a correspondent for the same newspaper, were in 1999 sentenced to prison for terms of 15 and 14 years respectively for publishing their newspaper, which had been banned, and on charges "attempting to overthrow the constitutional regime."

Expulsion of aliens (art. 13)

20. In light of the Committee's previous recommendations, please indicate whether the State party intends to adopt a law recognizing the status of refugees, including in particular the principle of non-refoulement of persons exposed to a violation of their rights under article 7 of the Covenant in the country of return. In the absence of such legislation, please describe the procedures in place to guarantee this principle of non-refoulement. Please also provide the Committee with specific information, including statistical data, on asylum-seekers that have been returned to their country of origin. (State report, paras. 584-603, previous concluding observations, para. 12)

The Republic of Uzbekistan remains the only country in the CIS which has not ratified any 1951 Convention on the Status of Refugee or its 1967 protocol, adopted any national legislation or established any administrative asylum procedure. Moreover, Uzbekistan's official policy remains to deny the presence of refugees and asylum seekers on its territory. In April 2006 UNHCR office was closed at the request of the Government of Uzbekistan. UNHCR Tashkent office was informed of the decision in a 17 March 2006 Uzbek Ministry of Foreign Affairs communiqué declaring that, "UNHCR has fully implemented its tasks and there are no evident reasons for its further presence in Uzbekistan. With this regard, the ministry requests UNHCR to close its office in Tashkent



within one month."<sup>31</sup>

Uzbek legislation on principals of mandatory return of refugees is strictly regulated: Article 10 of Uzbek Criminal Procedure Code does not contain any grounds for non-refoulement if there is a risk of torture. Although CIS Covenant on Fundamental Human Rights and Freedoms dated 26 May 1996 Minsk (later Kishinev) Conventions is one more peace of legislation relating to non-refoulement, but it does not refer to ill-treatment or torture as a ground to non-refoulement.

Right to a fair trial (art. 14)

21. In light of reports that evidence obtained through ill-treatment, i.e. forced “confessions”, continues to be used in courts, please indicate whether the State party has taken any measures to ensure the effective enforcement of the decision of the Supreme Court of 24 September 2004 regarding the inadmissibility of such evidence? Please provide detailed information on the number and nature of cases that have been reviewed following the decisions by the Supreme Court in this regard. (State report, paras. 447 and 454-455, previous concluding observations, para. 10)

Although the Supreme Court Resolutions has mandatory power before the courts of lower instance, the one on inadmissibility of evidences obtained through torture had little impact to prevention of torture and inadmissibility of evidences gathered through forced “confessions” as it had not been further codified in law. The necessity to further codify Resolutions of Supreme Court is the fact that such remain the secondary source of law and for law enforcement officers the primary sources are Codes.

In majority of cases if person explains that s/he confessed under torture during the court hearings, the judges tend to reject such allegations explaining it as attempt to avoid punishment. Even in the cases where torture was documented, it can be still rejected as in the case of Almatov Elmurod:

Tashkent City Court on criminal cases and appellation collegiums rejected the statements of Almatov E. that he was beaten and tortured with the use of electrical shock during preliminary investigation, despite the fact that lawyer presented picture and documentation of the medical check when Mr. Almatov was transferred from operation isolation ward to Tashkent City Prison. On November 22, 2005 Amatol was sentenced to death.

On July 14 2009, a police investigator reportedly poured boiling water on human rights activist Akzam Turgunov's back while he was in pretrial detention in an attempt to elicit a confession. Authorities detained Turgunov, a lawyer who had investigated local rule of law and corruption cases, on extortion charges on July 11 in the town of Mangit in

<sup>31</sup> <http://www.unhcr.org/news/NEWS/441eba5f4.html>

Karakalpakstan. Human rights activists suspected that the charges against him were politically motivated. The judge suspended Turgunov's trial pending an investigation of the boiling water incident, but later said the investigation showed that Turgunov had not been tortured. The court convicted Turgunov on October 23 and sentenced him to 10 years in prison.

22. Please comment on reports that, despite the Committee' previous recommendation, in practice, the right to access to a lawyer is often not respected, especially during the investigation stage and pre-trial detention, and that defence lawyers are frequently denied access to information relating to a client's case. (State report, paras. 85 and 619, previous concluding observations, para. 15).

The role of defence attorneys remains extremely limited. While access to lawyers is partially guaranteed by the Uzbek law, in reality, even these provisions are not followed, especially in politically-motivated cases or those with terrorist charges. State-sponsored legal defence is very poor, and usually these cases are presented by so-called *karmanniye advokati* - "pocket lawyers"- lawyers who would sign any document without meeting with their defendants and, sometimes, even testifying against their clients. Furthermore, a majority of attorneys are not enough qualified and even take up the side of prosecutor or play a very passive role in court hearings.

According to the comments of the ODHIR<sup>32</sup> monitor on the Andijan trial of fall 2005, many questions were irrelevant and defence attorneys did not actually act in the interest of their clients. The defence did not call any witnesses on behalf of their clients and frequently just echoed the prosecutors. Below is the ODHIR monitor's commentary.

*There was no attempt by the defence lawyers to question the defendants properly, to cross-examine prosecution witnesses with the aim of establishing facts that could assist the defendants, and to bring in witnesses who could provide mitigating details relevant to sentencing. The line of questioning by defence counsel was most of the time unstructured and lacked any strategy or planning of a defence case, such as with a view to minimizing the sentence that would be imposed upon their respective clients....In other cases questions were posed by the defence lawyers that might have been expected from the prosecution rather than the defence. The following are some examples: 'Was there American money involved in the Andijan event?' (Question posed to defendant T. Khajhiev). 'What would you say to the youth of Uzbekistan? (Question posed by Nodirov's lawyer to the defendant). 'Did the people of Uzbekistan do any harm to you? Why did you*

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<sup>32</sup> Office for Democratic Institutions and Human Rights ( ODIHR) Report from the OSEC/ODHIR trail Monitoring in Uzbekistan –September/October - 2005

*decide to come and kill people in Uzbekistan?*<sup>33</sup> (Question posed by the lawyer Abdikodirova to her client Imankulov).

*The closing arguments of the defence in most cases give no analysis of evidence presented at trial that might favour the defendants. In fact, the defence supported and further strengthened the arguments of the prosecution, confirming rather than seeking to refute allegations made by the prosecutor. Closing arguments were based on the prosecutors' conclusions and were not intended to argue to the contrary. Lawyer Imembergenova, defending Sadiron, was quite straightforward: 'There is no need to repeat what the prosecutor briefed...'<sup>34</sup>*

Although amendments to the Criminal Procedural Code in 2008 provide for unhindered access by lawyers, this is not implemented in practice. In particular it is still common for detainees to be held in isolation and denied access to a lawyer before formal changes are brought.

*23. Please comment on reports that, despite the measures in place (State report, paras. 63, 641-654), the judiciary in the State party still continues to lack independence. (previous concluding observations, para. 16)*

The role of the courts as well as the professional qualification of judges is of a rather low standard. Judicial errors are numerous; judges are reluctant to notice or dismiss the obvious defects in the work of the investigator and procurator. According to the Constitution, Courts are an independent branch of power, but in practice they are still controlled by the State in the name of the executive power.<sup>35</sup> The President appoints and may dismiss all judges, including those from the regional, district and city courts, except for the Supreme Court judges, who are appointed by the President with the Parliament's approval. There has not been a single case in which the Parliament refused to approve a judge's candidacy that has been presented by the President's Office.

Such influence on judges is largely rooted in the mechanism of appointment and dismissal of judges. First, they only have a five-year term of appointment. Second, their candidacies, before final approval by the President, undergo selection by the Judicial Qualification Commission under each court and then by the Higher Qualification Commission under the President, where all members are appointed by the President and are accountable to him. In 2001, this procedure was extended to judges in lower instance courts thus requiring their appointment by the President. The Chair of each province court is the head of the Province Qualification Commission. Six members of the commission are elected by the judges of the district and province courts from among the judges. Each Province Qualification Commission arranges judicial qualification examinations. Candidates who pass the exams are included on the "reserve list" of

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<sup>33</sup> The Report from the OSEC/ODHIR trial Monitoring in Uzbekistan –September/October - 2005 pages -

<sup>34</sup> The Report from the OSEC/ODHIR trial Monitoring in Uzbekistan –September/October - 2005 pages -

<sup>35</sup> Article 106 of the Constitution determines that the judicial power in the Republic of Uzbekistan is exercised independently of legislative and executive powers, political parties, or other public amalgamations.

potential candidates for judges. As soon as a judicial vacancy opens elsewhere, the Qualification Commission puts forward two or three candidates from the reserve list for consideration by the Higher Qualification Commission under the President, which interviews the candidates and recommends one of them to the President for approval. The whole process of appointment and dismissal is non-transparent and largely subjective.

24. What measures have been put in place to ensure that lawyers can exercise their profession freely? Please also provide information on the recent replacement of the Bar by the “Chamber of Lawyers,” including whether membership is compulsory for all lawyers. Please explain the rationale for the requirement of a requalification of all previously approved law licenses.

Under the new provision of the Law of Advocacy (January 2009) the Ministry of Justice requires all attorneys to undergo recertification every three years by taking an exam to extend their license to practice. In practice, this measure restricts the lawyers' free exercise of their profession. In particular it has been used to deprive of their licenses those who raise the issue of the use of torture (for example, Rukhiddin Kamilov, Rustam Tulyaganov, and Bakhrom Abdurakhmonov, all known for their criticism of the work of the investigative authorities, lost their licenses in 2009).

The new Chamber of Advocates is under the complete control of the Ministry of Justice and membership is compulsory for all lawyers. This makes lawyers dependent on and more vulnerable to the executive branch of government.

Freedom of religion and equal protection (art. 18 and 26)

25. Please indicate the steps taken to implement the Committee’s previous recommendations with regard to the de facto limitations of the freedom of religion and belief and the criminalization of proselytization. Please comment on allegations that religious activists continue to be prosecuted and sentenced (State report, paras. 687-716, previous concluding observations, para. 22).

26. What steps does the State Party intend to take to bring the provisions of the Universal Military Duty and Military Services Act relating to alternative service into line with articles 18 and 26 with a view to ensuring that the rights of conscientious objectors to military services are fully respected?

The written replies from the Government of Uzbekistan closely mirror paragraphs 488 to 491 of the State Report, and go on to give more details of the alternative service provisions.

Unfortunately these details simply confirm that the current arrangements are not at all in conformity with international standards, and they do not address the question itself, which asked about the State Party's intentions of bringing the provisions into line with the Covenant.

The information is volunteered that persons performing alternative service are called for military training, during which they acquire a military specialization unrelated to the use of weapons, and take the military oath. This, along with various other features outlined in the submission already made by CPTI, is not consistent with the recommendation of the former Commission on Human Rights of the United Nations that States “provide for conscientious objectors various forms of alternative service which are compatible with the reasons for conscientious objection, of a non-combatant or civilian character, in the public interest and not of a punitive nature” (operative paragraph 4 of Resolution 1998/77). It is surely also not in conformity with Article 18 of the Covenant. In particular, to require conscientious objectors to take the military oath poses problems on three levels:

- Religious objections to military service are often accompanied to similar objections to the swearing of oaths; some States (eg. the UK) have accommodated the latter, for instances by allowing witnesses to “affirm” rather than taking a sworn oath before giving evidence in court.
- As regards a specific military oath, a conscientious objection to military service might logically be expected to include an objection to taking such an oath.
- Finally, there is the question of the content of the oath itself. Does it include elements which are directly contrary to the conscientious objection? And is it in any way specific to the tenets of a particular faith, which may not be shared by the conscientious objector?

Two features of the legal provisions raise severe difficulties with regard to Article 26 of the Covenant. The duration of alternative service is double that of the military service to which the individual concerned would be liable; this discrepancy is blatantly punitive and discriminatory. And the provision that alternative service is available only to members of registered religious organisations whose tenets do not permit military service is contrary to the criterion established in the Human Rights Committee's General Comment No. 22, “there shall be no differentiation among conscientious objectors on the basis of the nature of their particular beliefs.”

An even graver concern is whether the legislative provisions are currently operative in practice. The list of religious organisations eligible to benefit from the provisions given in the State Report is not repeated in the written replies; the necessary official registration is available only at the level of the individual worshipping community, and is very hard to obtain even when other groups of the same denomination have been registered. In the last year there have been frequent reports of the harassment of at least two of the denominations listed, the Jehovah's Witnesses and the Baptists, and some of their members are currently prisoners of conscience, imprisoned for unauthorised religious activity. Neither the churches nor the Government itself has indicated that any person has performed alternative service since 2005; the lack of individual claims probably

indicates that individual conscientious objectors do not feel that it is safe to try to claim their right.

In its written replies, Uzbekistan indicates that a list of those enterprises, institutions and organizations, as well as jobs and professions, which may engage employees in alternative service are determined by the Cabinet of Ministers. The Government might usefully be asked what action it takes to publish the list, and to supply the current edition to the Committee, and also to provide an update on the numbers of persons (if any) who have performed alternative service since 2005, and (given the restrictions in the current law) to specify the religious organisations to which they adhered.

Freedom of association and right to take part in the conduct of public affairs  
(arts. 22, 25)

27. In accordance with the Committee previous recommendations, what measures has the State party taken to ensure that its laws and their application regarding the registration of political parties and public associations, including NGOs, do not exceed the restrictions permitted under article 22 of the Covenant? Please provide information on the number of registration requests of political parties and public associations lodged during the reporting period, the number of and reasons for refused requests, as well as the number of NGOs closed down. What financial or other controls are non-governmental organizations subjected to? (State report, paras. 76-84, 759-796, 856-875, previous concluding observations, para. 21)

The human rights situation deteriorated dramatically after the Andijan events of May 2005. Since that time, the government has launched a full-fledged campaign against human rights defenders and journalists and opposition members, arresting or harassing in various ways Saidjahon Zainabitdinov, Mutabar Tadjibaeva, Sanjar Umarov, Nodira Hidoyatova, Dilmurod Muhiddinov, Zakir Nosir, Dadahon Hasanov, Agzamjon Farmonov and many others. During the last two years after the Andjan massacre (2005/2007), the government has suspended or expelled almost all international organizations working in Uzbekistan, including IREX, Inter-news, Radio Free Europe/Radio Liberty, Freedom House, ABA CEELI, Eurasia Foundation, Counterpart International and many others.

The Uzbek government is using Stalin-era methods and propaganda to label human right defenders, independent journalists as well as other activists as enemies of the state. This repressive campaign against civil society is intended to intimidate the most politically and socially active segments of the population. It is meant to instill fear of the existing menace of the regime, of its possible evolution to new levels of despotism; it strives to destroy each person's commitment to fight against abuse and injustice.

The process of NGO registration itself takes **permissive** character, rather than nominal inclusion into the state register. It is required to present large number of documents to obtain a registration, including the Charter of the future organization, with aims and objectives, mission, and limited activities, area of work and beneficiaries. State officials

can easily refuse registration if organization plans to work on sensitive issues – human rights violations, violence against women, gender equality and etc.

Government perceives such independent civil society organisations as enemies damaging the image of the state by raising urgent problems both locally and in the eyes of international society. Therefore, it created a number of legislative acts to control and limit activities of non-governmental organization.

According to the Decree No. 56 of the Cabinet of Ministries of Uzbekistan, issued in early 2004, 'On Measures for Effective Calculation of Funding for Technical and Humanitarian Aid and Grants Received from International and Foreign Governments and Non-Governmental Organizations': "In order to prevent the possibility of and to close the channels for money laundering, all funds from international grants must be transferred to the Uzbekistan National Bank or Asaka Bank.". Uzbek legislation requires all local NGO to keep their funds only in one of the two state banks, within which there is a special commission that reviews the necessity and applicability of the specific NGO grants. Upon this review commission decides whether to allow NGO to access their funds. Largely the decision of this commission depends on personalities involved in the work of NGOs and issues they are raising. In the majority of cases, scarce funds allocated to NGO are simply returned to donors (especially, if these are the funds coming from foreign/international sources) and organization is not able to conduct their activities. It should be noted that if working in legal framework, NGOs have no right to get funds from foreign donors if the latter are not accredited in the country. In its turn it's practically impossible for an international donor other than a UN agency, to get accreditation.

It is worth noting, that funds allocated to local NGO and public organisations from international development organizations, including UN agencies are also frozen and returned to senders, if issues touched in the projects are sensitive or preferred to be silenced by the Government.

After well-known Andijan events in May 2005 government started a wave of NGO "voluntary" closures. According to the unofficial data more than 200 NGOs (most of them being women NGOs) were closed being pressured by the Ministry of Justice officials or through ordered court rulings. Many closed NGO continue their work without registration which in turn has consequences of being criminally or administratively prosecuted<sup>36</sup>.

In December 2005 Parliament adopted law "On introducing amendments to Criminal Code of Uzbekistan and Code of the Republic of Uzbekistan on Administrative Responsibility" which provides the following: according to the article 239 given to NGO, it is obliged to receive permission of registering body to conducting any event, present a report on their activity, including the documents confirming use of property and money resources. Failure to do so shall be penalized by enormous fines imposed on the managers and directors of an NGO.

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<sup>36</sup> Article 216 of the Criminal Code of the Republic of Uzbekistan and article 239 of the Code of the Republic of Uzbekistan on Administrative Responsibility

The Code of Administrative Liability provides responsibility for “involving others in illegal NGOs”<sup>37</sup>, which raises serious concerns:

- It is not clear, however, what is understood by ‘illegal’ NGOs. Does the term include only those NGOs which were forcefully liquidated or suspended by court - or does it include any NGO that is not registered? In the latter case, the provision is in violation of international standards.
- Of special concern is the lack of definition of the term “involving others in...” used in the article. In the absence of such definition, anyone holding a poster, for example, in a public place can be made liable under this provision, because they can be seen as “involving others” in something. Such an application of this article will be in a violation of international standards, in particular articles 21 (right to peaceful assembly) and 19 (freedom of expression) of the ICCPR.

The term “an illegal NGO” also involve criminal responsibility for its establishment and participation in it by the following articles:

- Article 216, Criminal Code: Illegal establishment or reactivation of illegal public associations or religious organizations as well as active participation in the activities thereof – shall be punished with fine from fifty to one hundred minimum monthly wages, or arrest up to six months, or imprisonment up to five years.
- Article 216(1) Criminal Code: Inducement to participate in operation of public associations, religious organizations, movements or sects, which are illegal in the Republic of Uzbekistan, after imposition of administrative penalty for the same actions – shall be punished with fine from twenty-five to fifty minimum monthly wages, correctional labor up to three years, or arrest up to six months, or imprisonment up to three years. (As introduced by Law of 1.05.1998.)

In January 2007 amendments were introduced to the Law on Mass Media, according to which Internet and bulletins were recognized as Mass Media with all implied consequences including the requirement for an NGO to obtain license in order to issue regular bulletins. Consequently, if an NGO bulletin is aimed at critical issues such as violence against women, sexual exploitation, democratic values and ideas, it is doubtful to obtain a license for it. For some time, Internet was used to disseminate information for the population of Uzbekistan, with adoption of abovementioned amendments the requirement for the content of publications and therefore self-censorship started working for the web-pages. A number of oppositional web-sites, publishing critical information and being maintained from abroad is blocked for the access of common Internet users through Uzbek providers. Some of such web-sites joined the campaign against blocking web-sites in Uzbekistan and carry stamp: “Blocked in Uzbekistan”, such as [www.ferghana.ru](http://www.ferghana.ru), [www.uznews.net](http://www.uznews.net) and some others. It should be mentioned that a lot of women’s thematic is discussed on these sites, but Uzbekistan readers are deprived

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<sup>37</sup> Article 202 (1) “Involving others in illegal- non-governmental, non-profit organizations, movements, sects: involving others in illegal- non-governmental, non-profit organizations, movements, sects, which are illegal in the Republic of Uzbekistan is punishable by a fine ranging from fifty to one hundred minimum wages or by an administrative arrest of up to fifteen days.”



from access to them. There is no access to the web-sites of international human rights organisations, such as Human Rights Watch.

Any publication produced by an NGO or international organization, including UN family, should get permission from the Centre on Spirituality and Education under the Cabinet of Ministers. This regulation acquired a special force in March, 2009 in the light of the newly adopted “The Program on enhancing national spirituality and struggle against phenomena and activities alien to the Uzbek way of living and mentality”. The implementation of that program began with screening of a bunch of publications of international organizations (UN Uzbekistan offices inclusive) by the Centre on Spirituality and Education. The screening is aimed to determine whether or not the publication is related to the issues and contains terminology of gender equality, domestic violence, feminism, safe sex, condoms, etc which are identified as “hostile to the national culture”.

The policy of fighting against phenomena alien to the Uzbek spirituality and mentality is clearly seen in the example of the first national textbook on gender studies “Introduction to gender relations: theory and practice in Uzbekistan” which was produced with the support of the UNDP under the programme related to implementation of CEDAW concluding observations on Uzbekistan. This textbook includes articles on the gender issues, domestic violence, feminism, legal aspects of non-discrimination and etc.

After the above mentioned commission articulated its internal verdict, that the issues covered by the textbook are “alien to national culture”, the “witch hunt” campaigns started on the book, its authors, and coordinators of the project. The General Prosecutor’s office and National Security Service started case against the publication, and it is currently banned for the use. The book is one of **four** publications in the criminal case being investigated by the Prosecutor’s office. It is unknown which individuals or organisations will be incriminated who are involved in writing and publications of the books. But it is well known that these individuals are in a serious danger to be prosecuted. Formally the Prosecutor’s office investigated whether there was an official permit given by the State Committee on print press (Goscompechat) under the Cabinet of Ministers to publish these books, and whether the publishing houses had all required documents to print. But the real cause was in the content of the above publications which were considered “alien and hostile to the national ideology, values and mentality”

Interestingly, in the State report submitted to CEDAW committee in 2006, the “Introduction to gender relations: theory and practice in Uzbekistan” textbook was indicated as one of the **national achievements on the way toward gender equality**, while in reality the textbook is banned for use.

As a result of this fight of the government against “uncomfortable” NGOs, the number of the latter decreased, activities carried out by such is not substituted by existing NGO or Gongs, especially on the issues on violence against women and children, anti-torture and human rights organisations.

Those who continue to work without state registration are extremely limited in their activities: they are unable to conduct trainings, publish materials and run campaigns. In their endeavors to destroy independent NGO movement, state officers forced to close even NGOs working on harmless for the government issues, e.g. those who were

substituting unpracticed tasks of authorities, such as care and trainings for disabled persons, providing shelter for the victims of domestic violence, conducting effective trainings on international covenant and conventions and etc.

Rights of minorities (art. 27)

28. Please indicate whether the State party has adopted provisions on the protection of minorities, and if so, please provide information on the guarantees therein. Please also indicate the level of State funding for the activities of cultural associations of ethnic, linguistic and religious minorities. (State report, para. 888)

Dissemination of information relating to the Covenant (art. 2)

29. Please indicate what steps the State party has taken to disseminate information about the Covenant, the submission of its third periodic report, its examination by the Committee and the Committee's previous concluding observations on the second periodic report. Please also provide additional information on the involvement of civil society and national human rights institution in the preparation of the report (State report, para. 3).