

Women's rights in Uzbekistan

Briefing note to the UN Committee on the Elimination of
Discrimination Against Women (CEDAW)

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Coordination by the Bureau of Human Rights and Rule of Law
Uzbekistan

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Issues of concern and suggested questions with regard to women's rights in Uzbekistan

Legal framework and institutional machinery for the advancement of women

- How does the State ensure institutional autonomy and independence of Women Committee?

The Women's Committee is a part of the Cabinet of Ministers headed by the Deputy Prime-Minister. Mechanisms of appointment and financing do not provide independence for this committee and thus it works under the strict control of the Executive power and law enforcement organs. In practice the committee is widely viewed as ineffective and at times even obstructed the work of NGOs promoting women's rights¹.

- Are there any court rulings referring to CEDAW? What is the exact number of such court rulings?

According to the information from the practicing lawyers, judges do not welcome references to international conventions and CEDAW in particular.

Civil society participation in the advancement of women

- Participation of women in social life: situation with nongovernmental organizations and with human rights activists

Independent women's movement are not welcomed by the state officials, furthermore, they are blamed for bringing so called "westernized values" and breaking traditional basis. Protection from domestic violence, non-discrimination and gender are included in the list of "westernized values" and perceived to be breaking traditional values of our country and therefore are tabooed in the official vocabulary. In the recent years government introduced a number of legislative acts to control the work of independent NGO. For instance, all women's NGOs are supposed to pass registration in governmental legal bodies before November 1, 2004, provided they have a reference letter from the Women's Committee of Uzbekistan in order to eliminate independence of NGOs and forced to be subordinate to Women's Committee. All these measures were aimed at the destruction of non-governmental organizations created by women at the grass-roots level as they were proclaimed to be the agents of the West, which propagandize ideas "alien to the national mentality".

The process of NGO registration in Uzbekistan takes permissive character, rather than nominal inclusion into the state register. 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 obstacles for independent women's NGOs to raise urgent issues such as violence against women, conditions in prisons, torture, questioning gender stereotypes and traditional role of women:

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

¹ <http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm>

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.

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**, to **present the 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 NGO.

After well-known Andijan events government started a wave of NGO "voluntary" closures. According to the unofficial data more than 200 NGO 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 prosecuted².

Denouncing human rights violations and criticism of authoritarian regime leads to psychological harassment and physical violence from the Interior organs and National Security Services. Many women HRDs were forced to flee the country. Only in the last two years three women –activists were jailed: Ms Umida Niyazova, Ms. Gulbahor Turaeva and Ms. Mutabar Tajibaeva. They all faced numerous harassments, and Ms Mutabar Tajibaeva faced cruelest forms of treatment and punishment while she was in prison.

Gender stereotypes and education

- There is a persistent presence of a traditional model in the division of roles in the family, where the man is expected to be the bread winner and the woman must raise the children. What measures are taken to change gender-based stereotypes among government officials, in particular? Does CEDAW included in school curricula?

The state report refers to the patriarchal matrix in family relations with traditional role of mother is raising her children while father is absent most of time for breadwinning- deep-rooted cultural stereotypes regarding the roles and responsibilities of women and men in the family and society in Uzbekistan. Making references to such stereotypical views even in the official report of the State to Committee on Elimination of Discrimination against Women shows the attitude of government officials to gender related issues.

Education of Convention is not included in the school curricula. Children learn some aspects of the domestic legislation: Constitution of Uzbekistan. There is a tendency to study Convention on the Rights of the Child, but no special provision for CEDAW.

Mass media is widely multiplying traditional patriarchal stereotypes thus preventing the principles of gender equality to be introduced to the national culture and mentality. The principles of gender equality are considered as the form of expansion of the West which

² Article 216 of the Criminal Code of the Republic of Uzbekistan and article 239 of Code of the Republic of Uzbekistan on Administrative Responsibility

depraves “a weak, shy, highly moral east woman”. The discriminative acts against women (early and arranged marriages, polygamy, bride kidnapping, domestic violence, etc.) are interpreted as the means for social protection of women at one side, and as deserved punishment for her behavior that does not meet the requirements of cultural patriarchal norms at another side.

Violence against women

- What measures does the State take to combat torture and ill treatment against women?

Torture and ill-treatment is recognized as systematic and widespread problem. Women face both direct torture and might be tortured in order to pressurize third persons. Rape or threat of rape is also widely used in detention and custody, particularly against women.

- Is there a separate prison or colony for juvenile women?

Juvenile women under detention pending trial and in custody kept together with adults. There is no separate colony or detention center for juvenile women. Being in constant contact with adult criminal offenders will have proven negative effect on juveniles as it is stated in Beijing Rules. Monitoring conducted by Bureau for Human Rights and Rule of Law, Uzbekistan concluded that conditions in women colony in Tashkent (the only women prison in the country) are far from being adequate, shortage of used area; lack of hygiene and proper nutrition. Cruel, inhuman and degrading forms of punishments are still used in women colonies and convicts can be placed in a dark, solitary cell.

- How is the term “Domestic Violence” incorporated in the legislation of Uzbekistan, the Criminal Code or Code of Administrative Liability in particular? How it is defined in the national legislation and does it includes all forms of violence, including psychological and economic violence? What are the clear timeframes for adoption of this law?

There is still no law on Domestic Violence adopted in Uzbekistan. The term of Domestic Violence is not provided in the Criminal Legislation. Furthermore, the literate translation on Domestic Violence is not used in Uzbek official language as words “gender”, “discrimination”, “violence” etc are not allowed to be used in official vocabulary, therefore not recognized, thus producing institutional effect on the ground: no vocabulary – no problem existing – no measure need to be taken – no institutions dealing with these issues - no budgetary allocations to combat the problem. Instead of the term “domestic violence” government uses “Family Conflicts” wording which differently perceived by people as something normal and natural like the notion of family itself.

Every year NGO record large number of women attempted or committed suicide as a result of domestic violence. However the exact number of such is unreported and the official sources are restricted and closed. NGOs assisting survivors of suicide attempts reported inconsistent cooperation from officials and neighborhood committees.³

- What is the role of mahalla in protection women from domestic violence?

³ <http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm>

Local self-governance organs in Uzbekistan are mahalla committees established in each mahalla, or community on a territorial basis. Pursuant to Article 1 of the Law “On self-governance organs of citizens” in the new edition of 14 April 1999, self-governance of citizens, of which mahalla is a party is an independent activity of citizens on resolving issues of local level based on their interests, historical specificities of development as well as national and spiritual values, local customs and traditions. Today, mahalla is responsible for reconciliation of family. Reconciliation committee is created within the structure of every mahalla in Uzbekistan. No court can accept writ for divorce without conclusion of reconciliation committee, despite the fact that this is not provided by the legislation of Uzbekistan. The purpose of abovementioned committee is reserving family and preventing divorces therefore during its sessions in majority of cases women face serious psychological pressure and in general sessions take accusatory character against women. Mahalla committees act as courts on family issues and deny the battered wives a permission to file a divorce, making them return home to their husband and hateful mother-in-law. Women are blamed for disobedience, impatience and flippancy and therefore they deserve punishment. One of the most expanded and worst practices of DV is the so-called “family slavery” of a bride, especially the young one, in the husband’s family. The bride is expected to do all the house chores, take care of her children and in-laws, serve numerous and frequent visitors of the house and alongside with this be under total control by the in-laws, mother-in-law, in particular, who gives permission to visit, or not to visit the bride’s parents, give or/not to give birth to child, carry children till a boy-child is born, etc. All this is buried into the “psychology of a victim”, meaning that all these burdens the bride should perform with happiness and light–heart as these are one of the “natural” attributes of a nationally valued bride.

Due to the fact that in majority of cases woman lives in the family and neighborhood of her husband, in the case of divorce she has to appeal to her husband’s (perpetrator’s family) mahalla. This regulation worsens situation of women –victims of domestic violence.

In such a way violence against women in Uzbekistan becomes institutionalized through the mechanisms of mahalla.

- What is the number of women – aksakals (chairs of mahalla) in Uzbekistan? Are there equal opportunities for men and women to be elected for the position of mahalla chairs?

With adoption of the Law “On self-governance organs of citizens” government provided mahalla with an important social role, which unfortunately is not used for democratic development of the country and increased social and political participation of citizens. Instead Government created strong tool for manipulation and control over common citizens. Through the system of appointment of mahalla chairs and financing mechanisms mahalla depends on the local governments. Mahalla fosters traditional values where women play secondary role.

The chairs of mahalla are called aksakals, by literal translation it means white-bearded thus it is a general perception that this position can be only occupied by men. Few women could nominate themselves to the position of mahalla chairs.

Sexual harassment

- How is the term sexual harassment incorporated and enforced in the national legislation?

Sexual harassment is not included in the penal provisions of Uzbekistan. Furthermore, the draft on the law “On equal rights and opportunities for men and women” does not make specific reference to amendments to the existing penal provisions on incorporation and sanctions for sexual harassment.

Marriage and family issues

- When does the State intend to address the discriminative legal provision of marriageable age? What measures are taken to prevent early and/or forced marriages? Does the State intend to outlaw them?

Despite numerous criticism of the provision for marriageable age it is still set at 18 for men and 17 for women (in exceptional circumstances may be lowered, by decision of the hokimiyat, but by no more than one year⁴). All UN Committees included this into their recommendations, however, this relatively simple to change provision was not amended. Furthermore, discriminative provision of marriageable age is closely linked to the problem of early marriages. To the perception of common people government silently supports early marriages which in turn lead to the number of following limited possibilities for young women.

Early marriages create the factor for unemployment of young women as regulation of requirements and obligations related to education and economic activity of women becomes complicated with early marriage and birth of baby. This is especially true in rural areas. Furthermore, violence frequently occurs in early marriages, as young daughter-in-laws are not experienced enough in house keeping, besides they are not ready to resist and protect themselves from violence and humiliations.

Another serious issue is arranged marriages. The majority of marriages, especially in the rural area are performed on the parental agreement between the groom and bride’s families.

Virginity control is an integral part of practically all firstly performed marriages though it is strongly tabooed and never discussed openly. Still the consequents of these practices humiliating rights and dignity of women are considerable.

- How polygamy is defined in Uzbek legislation? What are the statistics on the number of claims on polygamy? Does the State intend to outlaw polygamy?

In its Concluding Comments CEDAW/C/UZB/CO3 Committee recommended urgent amendment of the Penal Code provision on polygamy as if it exercised in the same house. However, no measures were taken for appropriate amendment of this provision.

Violence is a norm and widely spread in polygamous families rather than in monogamous ones. In polygamous families quarrels and fight for property between wives even more complicates the conflict situations.

⁴ article 15 of Family Code