

This document is a joint submission of the World Organisation Against Torture (OMCT) and the Uzbek League for Human Rights (ULHR) to the 30<sup>th</sup> session of the United Nations (UN) Working Group on the Universal Periodic Review (UPR) of Uzbekistan, to be held in May 2018. This report covers key concerns about human rights in Uzbekistan from the country's second UPR in April 2013 to the present, and is based on extensive documentation by ULHR and OMCT.

## **I. Introduction: little improvements in Uzbekistan's human rights situation despite recent political changes**

The four-year period since last UPR of Uzbekistan in 2013 was marked by some changes in the political life of Uzbekistan, and notably by the death, in September 2016, of authoritarian President Islam Karimov after 27 years of iron-fist ruling. Prime Minister Shavkat Mirziyoyev was then appointed as ad-interim President by the Senate (although the Constitution required the Chairman of the Senate to become interim President for a three month period in the event of the President's death), until he was formally elected as the new President in December 2016. Prior to his election, Shavkat Mirziyoyev had been the Prime Minister of Uzbekistan for thirteen years. His election came as no surprise, since no members of opposition parties or independent candidate were allowed to participate in the presidential election. The OSCE monitors reported numerous violations during the election process.<sup>1</sup>

Since his election, President Shavkat Mirziyoyev has undertaken **some actions to improve human rights** in Uzbekistan. Among others, there have been some **attempts to ensure transparency** of high officials work by obliging them to report on their work on the national TV and answer the questions of the audience; the President has instituted a hotline to record complaints online (Virtualnaya Priemnaya Prezidenta); on some occasions the President has criticized the work of the government and has allowed the partial broadcasting of such criticisms; the government adopted an Action Strategy on Five Priority Areas of the Country's Development for 2017-2021,<sup>2</sup> which includes pledges to improve public administration, reforms of the judicial and legal system, economic liberalization, and protection for vulnerable groups of the population. **Several political prisoners were released**, including Samandar Qoqonov who was detained for more than 23 years. Moreover, in June 2017, the Ministry of Foreign Affairs A. Kamilov stated that **international NGOs and media** such as Human Rights Watch, BBC, and the Uzbek section of Radio Free Europe **would be allowed to return to Uzbekistan**.<sup>3</sup>

However, since the last UPR in 2013, the **most needed changes in the human rights situation in Uzbekistan have yet taken place**. In particular, civil society continues to be systematically suppressed; the judiciary is still plagued by widespread corruption and lacks independence; torture remains endemic; freedoms of expression, association, peaceful assembly and of movement remains severely curtailed; women and lesbians, gays, bisexuals and transgender (LGBT) people face deep-rooted discrimination and violence.

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<sup>1</sup> Uzbekistan, Early Presidential Election, 4 December 2016, Final Report <http://www.osce.org/office-for-democratic-institutions-and-human-rights/elections/uzbekistan/306451>

<sup>2</sup> The Action Strategy for 2017-2021 years was adopted in February 2017; it is available at: <http://strategy.regulation.gov.uz/ru/document/1>

<sup>3</sup> In September 2017, the NGO HRW was indeed allowed to enter Uzbekistan, its first visit since 2010, when its representatives were banned from working inside the country: <https://www.hrw.org/news/2017/09/05/uzbekistan-new-political-era-should-focus-rights>

## **II. Principal issues of concern**

### **A. Systemic suppression of civil society**

Although the government's Action Strategy 2017-2021 identifies civil society as an important stakeholder and some human rights defenders were released under President Shavkat Mirziyoyev's ruling, including journalist Muhammad Bekjanov, who was released after serving 18 years in prison, Jamshid Karimov or defender of farmers' rights Azam Formonov, in the past four years (2013-2017), Uzbekistan's government has maintained its oppressive policies against independent non-governmental organizations (NGOs), human rights defenders, journalists and all critical voices.

#### ***Obstacles to freedom of association***

According to official figures, more than 8,000 NGOs would be operating in Uzbekistan.<sup>4</sup> In reality, still no independent national or international NGO formally exists in the country, after the government mandated a process of re-registration for NGOs in the aftermath of the 2005 Andijan massacre.<sup>5</sup>

Despite a few legislative changes, human rights defenders indeed continue to face serious **obstacles to their freedom of association**.

In 2014, the government adopted a resolution implementing Decree PP-2085 of the President of the Republic of Uzbekistan, dated 12 December 2013 "On additional measures to facilitate the development of civil society institutions". The Decree shortened the time period for government review of registration applications from two months to one month; reduced registration fees for NGOs by 80%; and simplified procedures for NGO registration and reporting.

Yet the registration of NGOs by the Ministry of Justice remains mandatory and a central prerequisite to NGO activity, in violation of Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Uzbekistan is a State party. Unregistered (i.e. illegal) NGOs are liable to a fine 10-30 times the minimum monthly wage (Article 239 of the Code on Administrative Responsibility). Before the revision in April 2014 of Article 239, the fine was previously from 50 to 100 times the minimum wage. Participation in unregistered organizations is sanctioned by up to three year's imprisonment (Article 216-1 of the Criminal Code)<sup>6</sup>, and "inclination to participation in the activity of illegal NGOs" by a fine from 50 to 100 times the minimum wage, or administrative arrest of 15 days (Article 202-1 of the Code on Administrative Responsibility).

Moreover, registration still represents a heavy burden for NGOs, which are required to provide quite detailed documentation, including the protocol of members' meetings and a list of founding members. For many years, through gathering such information, the officials have been putting pressure on founding members, to deny participation in formation of NGOs, and refuse their registration.<sup>7</sup>

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<sup>4</sup> Number of registered NGOs by 01 January 2016, available at: <http://ru.sputniknews-uz.com/society/20160427/2641893.html>

<sup>5</sup> On 13 May 2005, government forces killed hundreds of peaceful protesters who were denouncing poverty, unemployment, and government repression in the city of Andijan, in eastern Uzbekistan.

<sup>6</sup> Until March 2017, Article 216 (1) sanctioned participation in unregistered organizations up to five years' imprisonment.

<sup>7</sup> In its 2015 Concluding Observations on Uzbekistan, the UN Human Rights Committee (CCPR) expressed concern, in relation to the right to freedom of association, "about unreasonable, burdensome and restrictive requirements for registering political parties and public associations, as well as other obstacles to the work of human rights non-governmental organizations." See Human Rights Committee, *Concluding Observations on the fourth periodic report of Uzbekistan* (17 August 2015), UN Doc. CCPR/C/UZB/CO/4, paras. 17-18.

In the meantime several restrictive laws remain in place and registered NGOs are still forced to work under the strict control of authorities. In particular, Uzbekistan's Criminal Code and its Code on Administrative Responsibility (as amended in December 2005), continue, under Article 239, to oblige all NGOs to obtain permission from the Ministry of Justice before conducting any activity (NGOs failing to do so are liable to a fine 30 to 50 times the minimum monthly salary). Moreover NGOs remain forced since 2004 to keep their accounts only in two State banks, within which a Special Banking Commission, which is staffed by bank personnel and National Security Services officers, checks the applicability of the grants received by NGO. In turn many NGO funds have been frozen and sent back to donors.<sup>8</sup> The National Association of Non-governmental and Non-profit Organizations of Uzbekistan (NANNO), which was created by the government in June 2005 to control existing registered NGOs, also remains in force. In addition, since December 2003, all women rights NGO are registered under the Uzbekistan Women's Committee. Although this organization according to its charter is nongovernmental, it was created by presidential degree, and the Head of the organization is also the Deputy Prime Minister. In addition, the deputies of local governors head all regional branches of the Women's Committee.

Furthermore, new laws that increase restrictions on civil society have been adopted since the last UPR in 2013.

On 25 April 2016, the government adopted the Law on Introduction of Amendments to Some Legislative Acts, which introduced amendments to the Law on Non-Governmental Non-Commercial Organizations, the Law on Bank Secrecy, the Code of Administrative Liability, the Law on Public Foundations and the Law on Charity.<sup>9</sup>

As a result, all NGOs have to seek approval of the registering body (the Ministry of Justice) to be able to receive funding or equipment from foreign States, organizations or citizens (NGOs failing to do so are liable to a fine 15 to 30 times the minimum monthly salary). Amendments to the Law on Bank Secrecy provide the Ministry of Justice with the right to get any information on NGOs bank account, when such information is considered needed. NGOs also need to inform the Ministry about their members' planned visits to foreign countries.

In addition, this law amends Article 239-1(2) and Article 239 (3) of the Code on Administrative Responsibility, according to which NGOs that are not reporting on time to the Ministry of Justice, provide "inappropriate reporting" on activities, do not provide information on financial activities or do not publish annual reports on property use are liable to a fine 15 to 30 times the minimal monthly salary (the fine was previously 50 to 100).

The law also amends Article 239, 240 and 241 of the Code on Administrative Responsibility, allowing deportation and travel ban to Uzbekistan from one to three years of foreign citizens who would be linked to any kind of "political activity".

### ***Improvement***

On a positive note, it should be noted that through the amendments introduced in April 2016, Article 184 of the Code on Administrative Responsibility, which previously entailed charges for producing or distributing materials containing a threat to public security, was abolished.

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<sup>8</sup> For more details see joint 2013 UPR Report of FIDH and the Uzbek Bureau for Human Rights and the Rule of Law (UBHRRL): [https://www.fidh.org/IMG/pdf/ubhrrl\\_report\\_2013.pdf](https://www.fidh.org/IMG/pdf/ubhrrl_report_2013.pdf)

<sup>9</sup> On Amendments and Additions to Some Legislative Acts of the Republic of Uzbekistan (# 3PY-405), 25 April 2016, available at: [http://lex.uz/pages/getpage.aspx?lact\\_id=2937149](http://lex.uz/pages/getpage.aspx?lact_id=2937149)

## *Ongoing harassment of human rights defenders*

NGOs and human rights defenders still operate in a hostile environment. In particular, the attitude of the government toward civil society has not changed, as human right defenders and all critical voices continue to face arbitrary arrests and detentions, torture and ill-treatments, surveillance and harassment in retaliation for their work. For instance, in March 2017, human rights defender Elena Urlaeva was again placed to forced psychiatric treatment, where she was kept for 23 days before being released.<sup>10</sup> Several human rights defenders also remain arbitrarily detained following unfair trials and in prison conditions which amount to cruel, inhuman and degrading treatment.

### **B. Administration of justice**

#### *Corruption*

Corruption remains extremely widespread and affects all levels of the government, education, healthcare, and other public services. Everyone living in this country faces bribery and extortion. Citizens have to pay bribes or give presents for even the most basic public services. It is evident that power is concentrated in the hands of a ruling elite and their families while common people are forced to live in poverty or go abroad looking for earnings.

Anti-corruption policies and laws are rather weak and ineffective, as they only include receipt of material benefits but not non-material benefits such as favours. Officials working for the government are not required to declare their assets and earnings. In most of the cases State purchases are not published or kept secret.

According to Transparency International, Uzbekistan is on 156<sup>th</sup> place out of 176 countries, with the worst result in Europe and Central Asia, and worst among CIS countries in 2016.<sup>11</sup> The World Bank's 2015 Worldwide Governance Indicators also assessed the level of corruption with a score of 10 per cent (100 per cent is the best performance).<sup>12</sup>

#### *No independence of the judiciary*

The judiciary is highly dependent on executive power when it comes to appointment and dismissal of judges, their assessment, and financial resources. This has also been criticized by the UN Committee against Torture (CAT), which was concerned that “the judiciary remains weak, inefficient and influenced by the executive, that judges lack security of tenure and that lower-level appointments are made by the executive, which reappoints judges every five years”.<sup>13</sup>

In 2017, several amendments to existing legislation were introduced in order to address the deficiencies of the judicial system, one of which being the appointment of judges: initially a judge is elected for a five-year term, he or she can be re-elected for second term lasting 10 years and for a third term that has the

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<sup>10</sup> See Urgent Appeal of the Observatory for the Protection of Human Rights Defenders (OMCT-FIDH partnership) UZB 001/0317/OBS 022, 6 March 2017: <http://www.omct.org/human-rights-defenders/urgent-interventions/uzbekistan/2017/03/d24234/>, as well as <https://www.solidaritycenter.org/uzbek-human-rights-activist-elena-urlaeva-released/>

<sup>11</sup> Transparency International's Corruption Perception Index for 2016; available at:

[http://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](http://www.transparency.org/news/feature/corruption_perceptions_index_2016)

<sup>12</sup> World Bank's Worldwide Governance Indicators 2015; available at: <http://info.worldbank.org/governance/wgi/index.aspx#reports>

<sup>13</sup> CAT, Concluding Observations on Uzbekistan, UN Doc. CAT/C/UZB/CO/4, 10 December 2013, para. 21.

time-limit of retirement only.<sup>14</sup> Moreover, a new Supreme Judicial Council was formed for the appointment of judges. Unfortunately, this council is not independent. Although it is comprised of judges, members have to be presented to the Parliament and approved by the President of Uzbekistan.

Court hearings are unbalanced and privileged towards the Prosecution Office (Procuracy), as the role of defence lawyers is extremely insignificant. Procuracy, which is part of the executive branch, has enormous power and dominates over the judiciary system and highly affects the fairness of trials. It combines three large powers - investigation, representing State accusation in court hearings and control over human rights observation in the country - the three functions that should be separated between different organs for a genuine equality of arms.

Since 2008, the government has introduced several laws limiting the independence of lawyers. In particular, the Chambers of Lawyers became a part of the Ministry of Justice. A legislative change in 2009 requires lawyers to undergo recertification every three years. Such exams have been misused by the government as it disbarred many independent lawyers, who have brought politically sensitive cases, including torture cases, before courts. This has also been criticized by the CAT that specifically raised concern about the disbarment of Ruhiddin Kamilov and Rustam Tulyaganov.<sup>15</sup>

### **C. Torture**

Since the last UPR in 2013, the government has not made any noticeable progress in combating torture and ill treatment. Mostly, the State has failed to implement recommendations of the CAT from November 2013 as well as recommendations from States at the last UPR review in 2013.<sup>16</sup> In addition, the government's new Actions Strategy does not address torture.

Not only Uzbekistan has failed to introduce elements of the definition of torture into its Criminal Code but torture also continues to be routinely used in places of deprivation of liberty run by the National Security Service. Finally, impunity for torture and ill-treatment remains a challenge.

#### ***Definition of torture***

Despite CAT<sup>17</sup> and UPR<sup>18</sup> recommendations, Article 235 of the Criminal Code still does not contain all elements of the definition of torture as required by Article 1 of the Convention against Torture.

Contrary to the State's assertion<sup>19</sup> Article 235 of the Criminal Code has severe limitations. In particular, the provision does not cover acts by "other persons acting in an official capacity" including those acts that result from the investigation, consent or acquiescence of a public official. Moreover, the provision does not apply to acts against a third person as, for instance, a method of pressure.

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<sup>14</sup> Amendments to the law are available at: [http://www.norma.uz/novoe\\_v\\_zakonodatelstve/sudyam\\_ustanovili\\_predelnyy\\_vozrast\\_prebyvaniya\\_v\\_doljnosti](http://www.norma.uz/novoe_v_zakonodatelstve/sudyam_ustanovili_predelnyy_vozrast_prebyvaniya_v_doljnosti)

<sup>15</sup> CAT, Concluding Observations on Uzbekistan, UN Doc. CAT/C/UZB/CO/4, 10 December 2013, para.14. See also, Human Rights Watch "No one left to Witness" [http://www.hrw.org/node/103543/section/9#\\_ftn245](http://www.hrw.org/node/103543/section/9#_ftn245)

<sup>16</sup> 2013 UPR Recommendations by following States: A -134-7 –Germany; A-134-8 – Ireland; A-134 -9 -Austria; A-134-10 – Slovakia; A-134-10 Canada; A-134-11 -Namibia; 135-8- Switzerland.

<sup>17</sup> CAT, Concluding Observations on the Forth Periodic Report of Uzbekistan, December 2013, Para 10; available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2fCO%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2fCO%2f4&Lang=en)

<sup>18</sup> Also see 2013 UPR Recommendation made by following States: R-136-39 – Portugal; R-136-41 – the UK.

<sup>19</sup> Uzbekistan Report to the CAT – Para – 46 and 47.

Although, the Supreme Court has said in a judgment in 2003 that courts should apply the definition of torture as in Article 1 of the Convention,<sup>20</sup> law enforcement personnel continue to apply the Criminal Code. Moreover, a judgment cannot be the basis for sentencing and punishing torture perpetrators. When amending several articles of the Criminal Code in April 2017, the government chose not to translate this judgment into law as Article 235 remains unchanged.

### *Cases of torture*

Torture is perpetrated with almost complete impunity and remains a routine practice during investigation, as was reported by local and international human rights organizations, the UN Special Rapporteur on Torture in 2003<sup>21</sup>, and by the CAT in December 2013. The European Court of Human Rights (ECHR), to which Uzbekistan is not a member, generally considers refoulement of detainees to Uzbekistan not compatible with the prohibition against torture because “the use of torture and ill-treatment against detainees in Uzbekistan is ‘systematic’, ‘unpunished’ and ‘encouraged’ by law enforcement and security officers.”<sup>22</sup>

Due to repressive policies against human rights organizations and the whole NGO sector since 2005, there are no reports in open media sources on incidents of torture. Only very few cases of torture that resulted in death have been reported by independent media sources that work outside of Uzbekistan. Apart from the data presented in the State’s periodic report to the CAT, there are no statistics about cases of torture available.<sup>23</sup>

Furthermore, Uzbekistan has not accepted the individual complaint procedure under Article 22 of the Convention against Torture. The people of Uzbekistan do therefore not have the opportunity to use international remedies.<sup>24</sup>

The body of 34-year-old Sharof Nasibov, who sold car parts in Bukhara, was delivered to his family in January 2016. Nasibov and his brother were detained in December 2015 for tax evasion, a charge the Nasibov brothers denied. Relatives said Sharof Nasibov’s body showed signs of torture, including having had his fingernails torn out.<sup>25</sup>

In February 2016 there were reports that the body of 42-year-old Mahmudjon Hasanov was delivered to his relatives in Andijon province. A hastily arranged funeral was held under the watchful eye of security agents. No cause of death was given. Hasanov was serving a nine-year term in the notorious No. 64/46 Navoi prison for being a member of the banned group Hezb ut-Tahrir.<sup>26</sup>

<sup>20</sup> Uzbekistan’s Supreme Court’s Plenum Decision from December 2003, Para 18; of available at: [http://nrm.uz/content?doc=56928\\_postanovlenie\\_plenuma\\_verhovnogo\\_suda\\_respubliki\\_uzbekistan\\_ot\\_19\\_12\\_2003\\_g\\_n\\_17\\_o\\_praktike\\_primeneniya\\_sudami\\_zakonov\\_obespechivayushchih\\_podozrevaemomu\\_obvinyаемому\\_pravo\\_na\\_zashchitu&products=1\\_vse\\_zakonodatelstvo\\_uzbekistana](http://nrm.uz/content?doc=56928_postanovlenie_plenuma_verhovnogo_suda_respubliki_uzbekistan_ot_19_12_2003_g_n_17_o_praktike_primeneniya_sudami_zakonov_obespechivayushchih_podozrevaemomu_obvinyаемому_pravo_na_zashchitu&products=1_vse_zakonodatelstvo_uzbekistana)

<sup>21</sup> Report of the Special Rapporteur on the question of torture, Theo van Boven, submitted in accordance with Commission resolution 2002/38; 3 February 2003 <http://www.refworld.org/pdfid/4090ffc80.pdf>. Also see 2013 UPR Recommendation made of Ireland: A - 134.8.

<sup>22</sup> European Court of Human Rights, application no. 7265/10, *Yakubov v. Russia*, Judgment of 8 November 2011, Para. 82.

<sup>23</sup> In 2013, Uzbekistan government Report to the CAT refers that: “during the first six months of the year, it opened 226 criminal cases against 285 employees of law enforcement bodies. Of these, 75 persons were accused of charges related to abuse of power, and four were charged with torture or other brutal or degrading treatment [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fUZB%2f4&Lang=en)

<sup>24</sup> 2013 UPR Recommendation given by the following States: R - 136.1. - Portugal; R - 136.2. -Estonia; R - 136.3. Montenegro; R - 136.4. - Costa Rica; R - 136.5. Belgium; R – Sweden.

<sup>25</sup> Ozodlik Radiosi, The First 40 Days: Uzbekistan's Tales Of Success And The Reality On The Ground available at: <https://www.rferl.org/a/qishloq-ovozi-the-first-40-days-uzbekistan/27587417.html>

<sup>26</sup> Ibid.

On January 20, 2017, in Surhandaryo region, police arrested and detained entrepreneur Murodilla Omonov for 15 days for being drunk. On the next day his body was delivered to his relatives with signs of torture. The official cause of death was heart attack. After numerous complaints from his relatives the body of Murodilla Omonov was exhumed and a criminal case under the Criminal Code Article 207 (exceeding job duties) was opened.<sup>27</sup>

### ***Improvements***

On September 16, 2016, for the first time in its history Uzbekistan adopted a Police Law, which regulates the police activities. It entered into force six months later, in March 2017.

Furthermore, the government has created a specific organ at the President's office called Ombudsman person for protecting the rights of entrepreneurs. It has done so in order to advance the business sector. At the same time the government fails to recognize that, enhancing the economy is related to democracy, functioning human rights institutions, and laws that implement international human rights obligations that protect all people and not just businesses.

Finally, the Criminal Code was amended on April 1, 2017: the period for provisional detention has been reduced from 72 to 48 hours and the pre-investigation period from one year to seven months.

### **D. Women's rights**

#### ***Inequality between men and women***

Equality between men and women is not achieved in Uzbekistan. There are many gaps in legislation and policy on gender equality, although repeatedly raised by both local and international organizations.

The role of women is primarily as a mother and caregiver, rather than an active member of society let alone of politics. The Committee on the Elimination of Discrimination against Women (CEDAW Committee) recommended three times that Uzbekistan adopt the draft law on "Equal Rights and Opportunities for Men and Women" and "On Domestic Violence" that were drafted in 2004 but still not discussed in Parliament.<sup>28</sup>

There are number of laws in Uzbekistan that clearly discriminative against women. In particular, it allows child marriage as the Family Code sets the marital age for girls at 17 (with the possibility to be lowered to 16 years). In 2015 alone, 5,312 girls under 18 were officially married,<sup>29</sup> i.e. registered their marriage in the Civil Registry Office. Not appearing in this statistic are minors who married in a religious ceremony (called "Nikah,") . Furthermore, family laws do not provide women with any legal rights in case of divorce.

In addition, Uzbek law sets an earlier retirement age for women (55 years and 60 for men), which disadvantages women since the pension is calculated on the basis of years worked and pay earned during these years. Moreover, maternity leave does not count towards pension.<sup>30</sup> The Asian Development Bank

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<sup>27</sup> Radio Ozodlik, The body of arrested entrepreneur exhumed in Surhandarya region; available at: <https://www.ozodlik.org/a/28300703.html>

<sup>28</sup> 2013 UPR Recommended by the following States: A-135.7 Spain; A-134.13, and A -135.9 – Republic of Moldova.

<sup>29</sup> Number of marriages by age of bride and groom in 2015 available at: <https://gender.stat.uz/en/osnovnye-pokazateli-en/demografiya-en/braki-i-razvody-en/614-number-of-marriages-by-age-of-bride-and-groom-in-2015>

<sup>30</sup> Article 37 of the Law on State Pension Provision.

has expressed concern that in modern-day Uzbekistan women's shorter career history and lower salaries, combined with longer life expectancy, increases the risk of poverty for older women who struggle to survive on inadequate pensions.<sup>31</sup> The CEDAW Committee suggested that the lower retirement age for women should be optional and women should have the opportunity to continue working after the age of 55.<sup>32</sup>

### *Violence against women*

Domestic violence is still not properly addressed in legislation and remains an urgent problem faced by women and children in Uzbekistan. CEDAW, the CAT, and other UN Treaty Bodies have repeatedly expressed concerns about the prevalence of domestic and sexual violence and the inadequate and ineffective mechanisms.<sup>33</sup> Indeed, Uzbekistan lacks a comprehensive system responding to domestic violence cases. There is no legal definition of domestic violence or violence against women and officials use the term "family conflict." Such an approach in terms of vocabulary has an institutional effect: no term means that there is no problem, and neither funds need to be allocated, nor laws to be adopted. As above-mentioned, Uzbekistan lacks specific legislation on domestic violence and no special liability is provided for perpetrators of such violence. Instead, domestic violence incidents are treated under general criminal law provisions.<sup>34</sup>

In 2016 the Mayor of the capital city Tashkent introduced reconciliation committees run by Mahallas<sup>35</sup> in order to respond to the dramatic rise of divorces in Tashkent. A Reconciliation Committee is a quasi-judicial body comprised of members of Mahalla with the purpose of preserving family and preventing divorces. Since 2016, no court in Tashkent accepts writs for divorce without a conclusion of a Reconciliation Committee. In the vast majority of cases couples have to refer to the Mahallas in the neighbourhood of the husband's family. Meetings of the Reconciliation Committee are typically of accusatory character and blame the woman of attempting to destroy her family and of violating patriarchal norms of Uzbek society. It has to be noted that Reconciliation Committee members do not necessarily have a legal or human rights training. Such quasi-judicial committees that function as pre-trial violate international as well as domestic law.

Moreover, the Mayor of Tashkent planned to decrease divorces by increasing the fee for divorces and by publishing the names of divorcing people.<sup>36</sup> Creating numerous legal and practical barriers for divorce worsens the situation of women and forces them to remain in violent relationships.

It is well known that civil society organizations play a crucial role in promoting gender equality and combatting violence against women. However, the control mechanisms over NGOs and limited sources of funding led to the situation in which women rights NGOs are inactive or inconsistent in their activities.<sup>37</sup>

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<sup>31</sup> Asian Development Bank, Uzbekistan: Country Gender Assessment, 21 p., available at: <https://www.adb.org/sites/default/files/institutional-document/42767/files/uzbekistan-country-gender-assessment.pdf>

<sup>32</sup> Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No. 27: On Older Women and Protection of their Human Rights, U oc. W 2 1 GC.1, 2010, Para 20.

<sup>33</sup> CEDAW, Concluding observations on Uzbekistan, UN Doc. CEDAW/C/UZB/CO/5, 24 November 2015, para 17; CAT, Concluding Observations on Uzbekistan, UN Doc. CAT/C/UZB/CO/4, 10 December 2013, para. 25.

<sup>34</sup> Asian Development Bank, Uzbekistan: Country Gender Assessment, 36 p., available at: <https://www.adb.org/sites/default/files/institutional-document/42767/files/uzbekistan-country-gender-assessment.pdf>

<sup>35</sup> 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.

<sup>36</sup> Tashkent authorities will fight against divorces, 21 October 2016 available at: <https://nuz.uz/obschestvo/17381-vlasti-tashkenta-budut-zhestko-borotsya-s-razvodami.html>

<sup>37</sup> Lola Islamova, Are women and men equal in Uzbekistan; 18 June 2017 <http://anhor.uz/ru/columnists/ravni-li-zhenshini-i-muzhchiny-v-uzbekistane>

While the neighbouring country Kazakhstan has approximately 2,500 active women's rights NGO, Uzbekistan, with the population twice as larger as Kazakhstan, has only 210 registered women's rights NGOs.

### **E. LGBT rights**

Uzbekistan remains one of the few countries criminalizing sexual relationships between men despite numerous recommendations from the UN Human Rights Committee (CCPR).<sup>38</sup> During the UPR process in 2013, Uzbekistan rejected recommendations from five countries on elimination of Article 120 of the Criminal Code that provides punishment for consensual sex conduct between men.<sup>39</sup>

The government justifies keeping Article 120 in its Criminal Code by stating that homosexual relations are one of the causes of the spread of HIV/AIDS in the country and articulates that such relationship are contrary to the traditions of the peoples of Uzbekistan.<sup>40</sup> The CCPR has noted that no link has been shown between the continued criminalization of homosexual activity and the effective control of the spread of the HIV/AIDS virus.<sup>41</sup> LGBT organizations reported cases of law enforcement officers abusing Article 120 of the Criminal Code as a way of money extortion.

Stigmatization against LGBT and homophobia is high in the Uzbek society among top governmental officials. For instance the former President of Uzbekistan, I. Karimov said: *"We talk about so-called Western culture. We call it vulgar culture. You know what I mean. It's inappropriate even to speak about this in front of women. When men live with men and women live with women, I think there must be something wrong up here (...) something is broken here."*<sup>42</sup>

New authorities continue with the policy of the former President and necessary amendments in the Criminal Code implementing UPR and CCPR recommendations are not even discussed.<sup>43</sup>

Moreover, one observes a dramatic increase of homophobia among people.

LGBT persons face different types violations, if their gender orientation is disclosed. One of the many such examples is the dismissal from work of 23 years old Erbulat, a gay person from Nukus city, when the chief of the hospital found out about his homosexuality.<sup>44</sup>

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<sup>38</sup> CCPR, Concluding Observations on Uzbekistan, UN Doc. CCPR/C/UZB/CO/4, 17 August 2015, para. 7.

<sup>39</sup> 2013 UPR Recommendations given by following States: R - 136.49 Argentina; R - 136.50 Spain; R - 136.51 Netherlands; R - 136.52 – Uruguay.

<sup>40</sup> CCPZcs, CCPR/C/UZB/CO/4/Add.1 Information received from Uzbekistan on follow-up to the concluding observations, 2 February 2016, page 5 Para 32. [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4%2fADD.1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fUZB%2fCO%2f4%2fADD.1&Lang=en)

<sup>41</sup> Toonen v. Australia, Human Rights Committee, Communication No. 488/1992, UN doc. CCPR/C/50/D/488/1992, 1994, Para 8.7

<sup>42</sup> Tomiuc, *Radio Free Europe* "Uzbek President calls Homosexuality Vulgar' Western Habit", 8 February 2016, available at: <https://www.rferl.org/a/uzbekistan-karimov-calls-homosexuality-vulgar-western-habit/27539247.html>

<sup>43</sup> 2013 UPR Recommendations made by following countries: R - 136.49 -Argentina; R - 136.50 -Spain; R - 136.51 - Netherlands; R - 136.52 – Uruguay.

<sup>44</sup> Ozodlik Radiosi article about firing 23 years old gay person Erbulat, 01 July 2017 <https://www.ozodlik.org/a/28589581.html>

## **F. Limitation to freedom of movement**

Uzbekistan remains the only country from the former Soviet Union, which still has an exit visa for its citizens that is issued for the period of two-years. In 1995, Uzbekistan adopted the Law on Exit Visa<sup>45</sup>, which disregards its citizens' fundamental right to freedom of movement.

Generally, an exit visa is a sticker in the passport issued by the Ministry of Interior Affairs (MVD), allowing citizens to leave their country during a period of two years from the moment it was issued. In order to obtain this, citizens need to collect several documents and pay fees amounting to 50% of the minimal monthly salary in Uzbekistan. While authorities are obliged to take a decision within 15 to 30 days, this can take a lot longer in practice.

A law adopted in 2011 provided an extensive list of grounds for exit visa refusal that include possessing State secrets, criminal proceedings or nonfulfillment of a court order.<sup>46</sup> The exit visa system was also amended to include a newly restrictive sub-provision, which is vague and undefined; absent from other Uzbek laws; and not subject to appeal.<sup>47</sup>

Furthermore, in 2011, under the cover of preventing trafficking, the government introduced openly discriminative law against women. Women aged 18 to 35 applying for an exit visa are indeed now obliged to provide a permission letter from their parents or husband.

The government keeps this practice in order to restrict outside contact and control dissidents and is clearly a method of pressure against human rights defenders, by forbidding them to leave Uzbekistan, without giving any reasons. Indeed several cases were reported when human rights defenders and other civil activists were denied exit visas, including Vyachislav Akhunov, Shukhrat Rustamov, Uktam Pardaev, Elena Urlaeva, Adelaida Kim, Khaitboy Yakubov, and others.<sup>48</sup>

In August 2015, the UN CCPR voiced concern to Uzbekistan that it “still retains the exit visa system and [...] prevents the travel of human rights defenders, independent journalists or members of the political opposition abroad by delaying the issuance of exit visas”. The Committee called on Uzbekistan to “abolish the exit visa system”<sup>49</sup>.

Although in his address on 19 September 2017 to the UN General Assembly<sup>50</sup>, President Shavkat Mirziyoyev stressed that the exit visa had been abolished, this will only be effective from 2019 onwards and therefore this still remain an issue of concern in the meantime.<sup>51</sup>

## **III. Recommendations**

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<sup>45</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 # 8 of 6 January 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 1 July 1999, available at: [http://fmc.uz/legisl.php?id=por\\_viezda](http://fmc.uz/legisl.php?id=por_viezda)

<sup>46</sup> The law adopted in 2011 provides the list of grounds for exit visa refusal that include possessing State secrets, criminal proceedings or nonfulfillment of a court order. Ibid. Para III.

<sup>47</sup> “j) if the Ministry of Internal Affairs or the Ministry of Foreign Affairs has information that a person violated the law while being outside of the country and also information relating to inexpediency of exit for the period of two years from the moment of putting him/her to the record.” The law, however, does not specify what is meant by ‘inexpediency of exit’, thus giving authorities a wide range of tools to pressure dissidents and arbitrarily refuse an exit visa. Furthermore, exit visa refusal on this ground cannot be appealed in court. Ibid. Para IV.

<sup>48</sup> US State Department 2016 Country Human Rights Practices Report: Uzbekistan, <https://uz.usembassy.gov/2016-country-reports-human-rights-practices-uzbekistan/>

<sup>49</sup> See UN CCPR, Concluding observations on the fourth periodic report of Uzbekistan (17 August 2015), UN Doc. CCPR/C/UZB/CO/4, para. 20.

<sup>50</sup> See <https://gadebate.un.org/en/72/uzbekistan>

<sup>51</sup> See [https://lenta.ru/news/2017/08/16/no\\_visas/](https://lenta.ru/news/2017/08/16/no_visas/)

OMCT and ULHR urge the members of the Human Rights Council to call on Uzbekistan during the third cycle of the UPR to implement the following recommendations:

#### **A. General recommendations**

- Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Uzbekistan.
- Fully implement all recommendations issued to Uzbekistan by relevant UN Treaty Bodies and Special Procedures.
- Extend a standing invitation to all UN Special Procedures, including the UN Special Rapporteur on Torture, for an official visit to Uzbekistan.

#### **B. Civil society**

- Guarantee, in all circumstances, the physical and psychological integrity of all human rights defenders, journalists and critical voices in Uzbekistan.
- Release immediately and unconditionally all detained human rights defenders, journalists and critical voices in Uzbekistan as their detention is arbitrary since it only seems to aim at punishing them for peacefully exercising their rights to freedom of expression, association and assembly.
- Put an end to all acts of harassment - including at the judicial level - against all human rights defenders, journalists and critical voices in Uzbekistan, and ensure in all circumstances that they are able to carry out their legitimate activities without any hindrance and fear of reprisals.
- Ensure that any limitation on the right to freedom of association is consistent in its entirety with Article 22 of the ICCPR.
- Review legislation regulating the establishment, registration and operation of NGOs, including foreign NGOs, in order to create a legal and administrative framework favourable to the development of NGOs and their work.
- To this effect, review legislation that prohibits and criminalises unregistered NGO activities.
- Review legislation that prohibits and criminalises NGOs merely on the grounds that they receive funding from abroad; eliminate the practice of checking NGO grants by the Special Commission; and stop freezing and returning grants allocated to NGOs by international donors. <sup>[1]</sup><sub>[SEP]</sub>
- Review legislation so as to respect the right of NGOs to formulate their programmes and activities and to manage their resources - including funding - independently without interference from the authorities, notably from the Ministry of Justice.
- Remove the requirement to obtain permission for travel of NGO employees.
- Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, in particular with Articles 1 and 12.2.

#### **C. Independence of the judiciary**

- Ensure the full independence of the judiciary and refrain from executive involvement in appointment and dismissal of judges.
- Ensure the independence of lawyers and in particular repeal the requirement of re-taking the bar exam every three years.

#### **D. Combating torture**

- Effectively implement the prohibition on torture and other cruel, inhuman or degrading treatment or punishment in all circumstances and set up aggravated sanctions for such treatment. Amend Article 235 of the Criminal Code, bringing it into full compliance with Article 1 of the Convention against Torture. <sup>[L]</sup><sub>[SEP]</sub>
- Establish mechanisms and proceedings that assist victims of torture to make complaints against perpetrators at local and international level. Particularly, accept the individual complaint procedure under Article 22 of the Convention against Torture.
- Ratify the Optional Protocol to the Convention against Torture.
- Establish a system of independent monitoring of prisons that also allows NGOs in engaging in monitoring of detention centres and prisons, and in communicating with detainees in private. <sup>[L]</sup><sub>[SEP]</sub>
- Conduct thorough and impartial investigation into allegations of torture and other cruel, inhuman or degrading treatment or punishment. Bring those responsible to trial and apply the penal and/or administrative sanctions provided for by law. Guarantee that adequate reparation and other forms of redress are provided to the victim. <sup>[L]</sup><sub>[SEP]</sub>
- Enshrine the right of detainees to a medical examination by a doctor of their choice and discretion (family/personal doctor) in law, including the right to demand a medical examination of bodily injuries by a qualified practicing forensic doctor. <sup>[L]</sup><sub>[SEP]</sub>
- Introduce the requirement that a mandatory individual records be kept for each detainee/arrested person in the form of a personal card to be kept in the detainee's personal dossier. This card should contain mandatory information, including: time of arrival at law enforcement offices, time of arrest, time at which the detainee is advised of their rights, indications of body injuries; if any (absence of such signs should also be noted), time at which close relatives or other people close to the detainee are informed of the procedural coercion measures to which the detainee has been subject (arrest, detention, placement in medical institution;) date and time of investigator, prosecutor, lawyer and visits of other people; detainee's meal times, dates of transfer from one place of detention to another. <sup>[L]</sup><sub>[SEP]</sub>
- Equip all interrogation rooms with video and audio monitoring systems.

#### **E. Women's rights**

- Adopt the Draft Laws on Domestic Violence and Equal Rights for Men and Women and adopt a law against discrimination. Develop a comprehensive program combatting domestic violence and increase the role of women in family and society, not limiting it within patriarchal frames.

- Involve NGOs in programs related to women's rights; assist in creating non-governmental shelters for victims of domestic violence.
- Abolish discriminatory provision for different marriageable age for boys and girls in Uzbekistan.
- Eliminate the practice that requires a decision by Mahalla's Reconciliation Committees in divorce procedures as they are discriminating against women. Only allow courts to decide about divorce.

#### **F. LGBT rights**

- Abolish Article 120 of the Criminal Code of Uzbekistan.
- Develop comprehensive programs combatting homophobia and discrimination against LGBT people.