

# **UNCT submission<sup>1</sup> for the 2012 Universal Periodic Review of Uzbekistan** **(2<sup>nd</sup> cycle)**

## **I. Background and Framework**

### **A. Scope of international obligations**

Uzbekistan is a party to 6 major human rights conventions, namely International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocol and Second Optional Protocol aimed at abolition of death penalty; International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Convention on the Rights of the Child (CRC) and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography and its Optional Protocol on the Involvement of Children in armed conflict; International Convention on Elimination of All forms of Racial discrimination (ICERD); Convention on Elimination of all Forms of Discrimination against Women (CEDAW), which requires further compliance of commitments and implementation of these provisions.

Uzbekistan signed the Convention on the Rights of Persons with Disabilities in early 2009, but has not ratified it yet. The country has not acceded to the International Convention for the Protection of all Persons from Enforced Disappearance (CPED) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW).

In December 2008, Uzbekistan ratified the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in armed conflict and the Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at abolition of the death penalty, which has already been implemented in Criminal Code of Uzbekistan and other relevant national legislation.

As mentioned above Uzbekistan is a Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination against Women but has not signed and ratified their Optional Protocols yet. Uzbekistan joined the Convention against Corruption (UNCAC) in 2008 and has implemented measures for its implementation.<sup>2</sup>

### **B. Constitutional and legislative framework**

Section 2<sup>3</sup> of the Constitution of the Republic of Uzbekistan of 1992 is dedicated to the protection of principal human rights. Thus, a range of civil, political, economic and social rights are provided under the Constitution of Uzbekistan. Among other rights they include: the right to life (Art. 24), right to freedom of liberty and security of a person (Art. 25), right to freedom of torture and other kinds of ill-treatment and fair trial guarantees (Art. 26), right to privacy (Art. 27), right to participate in political and public life (Art. 32), right to labour (Art. 37), right to social security (Art. 39), right to medical care (Art. 40), right to education (Art. 41), judicial protection of all rights including protection against unlawful decisions of state bodies, state officials and public associations (Art. 44). Moreover, in Article 45, the Constitution particularly emphasizes that the rights of the minors are under special protection of State. It is noteworthy to mention that the Constitution also contains a chapter<sup>4</sup> specifically related to the protection of the family. Its Article 63 points out that “the family is a principal cell of the society and is entitled to special

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<sup>1</sup> This joint UNCT submission, which summarizes key human rights developments since the 1<sup>st</sup> cycle of the UPR of Uzbekistan (May 2008), is based on information from UNAIDS, UNDP, UNFPA, UNICEF, UNODC, UNESCO, UN Women and WHO.

<sup>2</sup> Uzbekistan joined the Istanbul Action Plan in 2009 and its assessment report on Uzbekistan was adopted in December 2010 and monitoring report (within the first and second rounds of monitoring) in February 2012 accordingly.

<sup>3</sup> Section 2

<sup>4</sup> Chapter XIV

protection of society and State.” Article 64 specifies the obligations of parents to support and rear their children up to the moment when they attain the age of majority. The same article provides that State and society bear principal responsibility for maintenance, upbringing and education of children orphans and children left without parental care. Article 65 says that motherhood and childhood are protected by state.

### **Rights of children**

The Constitution, Codes and other laws adopted in the country all accept the principle of the priority of the norms of international law over national law. At the same time, the Convention on the Rights of the Child does not constitute an integral part of domestic legislation in the sense that national courts and administrative bodies may consider cases or make decisions concerning children by direct reference to its provisions.

Uzbekistan has introduced a range of national legislation favorable to child rights, including the Family Code, which regulates the age of marriage and some aspects of child protection, and the Law "On the Guarantees of the Rights of the Child."

The adoption of the Law “On the Guarantees of the Rights of the Child” in 2007 can be considered a landmark, as it embraces all the human rights of the child in a single law and creates a legal foundation for the protection, promotion and fulfillment of the rights and freedoms provided under the Convention on the Rights of the Child. The language of the Convention is mirrored in this law, and with respect to economic and social rights, it provides some additional protection, beyond the requirements of the Convention.<sup>5</sup>

Legislation in Uzbekistan prohibits the use of children in the worst forms of labour in line with ILO Convention 182, ratified by the Government in June 2008. The Government has also adopted a National Plan of Action for the implementation of ILO Convention 182. The Government has also established a working group to oversee the implementation of the Plan of Action.

The following are some of the legislation and Codes that protect children from different forms of child labour: article 37 of the Constitution of the Republic of Uzbekistan; the Labour Code (1996) with subsequent amendments - especially amendment to Article 49 made in 2009 – “On Amendments to the Code of the Republic of Uzbekistan on administrative responsibility in connection with the improvement of legislation on protection of minors.”; Joint Resolution of the Ministry of Labour and Social Protection and Ministry of Health Care (2009) - listing occupations where children under the age of 18 cannot be recruited; the order of the Ministry of Labour and Social Protection of the Population and the Ministry of Healthcare “On approval of the Regulation concerning requirements to ban the use of labour of minors” #88/1 of 15 January 2010 – outlines restrictions on children working in family business; regulation on the Commission of Minors (allows CoM to inspect labour conditions); Criminal Code (Article 135).

### **Equality and non-discrimination**

The Constitution of Uzbekistan (Art.18) sets out that “all citizens of the Republic of Uzbekistan shall have equal rights and freedoms, and shall be equal before the law, without discrimination by sex, race, nationality, language, religion, social origin, convictions, individual and social status. Any privileges may be granted solely by the law and shall conform to the principles of social justice”.

Moreover, almost all laws including 13 Codes (Civil Code, Code of Civil Procedures, Criminal Code, Code of Criminal Procedures, Code of Administrative Responsibility, Land Code, Labour Code, Family

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<sup>5</sup> Articles 19, 26, 24, 25, 27, 28 and 29 provide information on rights of socially vulnerable children to live in a family dwelling and ownership rights upon their release, provision of state financial, consultative and other type of aid to families of children with disabilities and children with impairments of physical and psychological development, guarantees of the rights of socially vulnerable children to be integrated into mainstream society, envisages the adoption and elaboration of state programmes as well as the allocation of necessary resources, participation of socially vulnerable children in public life, free access to educational, medical and cultural and recreational facilities, provision of different kinds of medico-social assistance.

Code, Tax code, Town planning code, Housing code, Customs code, Air code are based on the principles of equality and non-discrimination.

Despite long discussions (including definition of “discrimination”) for many years, the draft Law “On Equal rights and opportunities” has not been adopted yet.

### **Migrants/ asylum/ statelessness**

Article 28 of the Constitution of Uzbekistan states that “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”.

There are no adopted Laws on migrants, even though preliminary discussions on draft Law “On foreign labour migration” have taken place. Currently migration, including foreign and labour migration is governed by the Regulations of the Government of Uzbekistan dated 2003 and 2004 with some changes.

In September 2011, the Law “On the list of the categories of persons - citizens of Uzbekistan allowed to register as a permanent resident in Tashkent city and Tashkent region” was adopted. This Law has replaced the existing by-laws, has eliminated the Special Commission, which had considered applications for residence in Tashkent city, as well as enlarged the list of persons-citizens, who are eligible to apply and to receive permanent residency in these two regions.

In May 2008 and further in August 2012, the Government of Uzbekistan has tightened the punishment for breaking the rules of stay of foreign citizens and stateless persons in the country. Previously, foreigners who do not abide by immigration laws, were punished by fines, while for similar violations now they can be deported to their respective home country.

On 17 April 2008, Uzbekistan adopted the “Law on Combating Trafficking in Persons”, which sets out, together with relevant articles of the Uzbek Criminal Code and Code of Criminal Procedure, the legislative framework constituting the basis to prosecute and convict persons who are responsible for the commission of human trafficking-related offences. The aforementioned legislative tools regulate several aspects of the matter at stake, including -among other things- the definition of trafficking in persons and the criminalization of such a conduct, the assistance to be provided to victims and witnesses of trafficking in persons as well as the prevention of the commission of such a crime.

In an effort to counter human trafficking effectively, the National Action Plan on the Enhancement of Efficiency of Countering Human Trafficking for 2008-2010 was adopted on 8 July 2008 and followed by the Action Plan for 2011-12. The Republican Interagency Anti-Human Trafficking Commission was also established. Reportedly, the Commission is currently considering the ways of extending the implementation of the action plan for 2013 and beyond.

Uzbekistan ratified in August 2008 the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children, but has not ratified nor has acceded the Protocol Against the Smuggling of Migrants by Land, Sea and Air (supplementing the UN Convention Against Transnational Organized Crime).

### **Right to life, liberty and security of person**

Right to life, liberty and security of person are envisaged in the Articles 24-27 of the Constitution of Uzbekistan, which recognize “the right to life is the inalienable right of every human being and everyone shall have the right to freedom and inviolability of the person. No one may be arrested or taken into custody except on lawful grounds. No one may be adjudged guilty of a crime except by the sentence of a court and in conformity with the law. Such a person shall be guaranteed the right to legal defense during open court proceedings. No one may be subject to torture, violence or any other cruel or humiliating treatment. No one may be subject to any medical or scientific experiments without his consent”.

## **Administration of justice, including impunity, and the rule of law**

Uzbekistan has amended the Criminal Code and Code of Administrative responsibility in April, 2012 and increased responsibility for manufacturing, importing, distributing, advertising and displaying pornography and products that promotes a culture of violence and cruelty.

In September 2010, Uzbekistan adopted amendments to the Code of Criminal Procedure having introduced a new section entitled “International cooperation in criminal matters”. The amendments established the grounds and procedure for mutual legal assistance and extradition that previously had not been regulated by law.

Moreover, in early 2012, the Code of Criminal Procedure was amended with provisions (Articles 325, 333 and 339) that provide more protection for victims of several offences and gives more power to prosecutor to commence prosecution without written complaint of victims, depending on the defendants or otherwise unable to protect their own rights and interests.

Uzbekistan joined the Hague Convention Abolishing the Requirement for Legalization of Foreign Public Documents (the Apostille convention, or the Apostille treaty) (1961), which entered into force in April, 2012 for Uzbekistan.

The judicial legislative process for juveniles is essentially in line with international standards with some gaps however the implementation is weak. There is a lack of specialized juvenile court proceedings, judges, lawyers and prosecutors. There are concerns about police being able to detain children for up to 72 hours without personal appearance before a prosecutor or court. Pre-trial proceedings must, in theory, be completed within three months but this can be extended to nine months. Children are not awarded the right of privacy due to judicial proceedings being open to the public unless the judge decides otherwise. The rules on sentencing are largely found to be in line with international standards<sup>6</sup>.

On 30 September 2011, the Law on Pre-trial Detention entered into force in Uzbekistan. The law reiterates the main principles of justice concerning detained and people taken into custody as a restraint measure provided in the Code of Penal Procedure of Uzbekistan, namely the right to presumption of innocence until the guilt will be established by a decision of the court, the right to non-discrimination and right to freedom of torture. The law clarifies the types of facilities detainees and people taken into the custody can be placed in and the conditions of transfer from one detention facility to another. The law prescribes the rights of detained and people placed into custody, the order to submit complaints, the order to maintain family relationship and meetings with lawyers. The law stipulates the issues related to the nutrition, medical assistance, living conditions of detainees as well as their labour and participation in civil transactions. The law clearly prescribes the application of disciplinary measures, measures of restraint and application of force by the staff of detention facilities. The law talks about the particular conditions of detention for pregnant woman, women having children under the age of 3 and juveniles.

## **Right to privacy, marriage and family life**

Constitution (Article 27) states that “Everyone shall be entitled to protection against encroachments on his/her honor, dignity, and interference in his/her private life, and shall be guaranteed inviolability of the home. No one may enter a home, carry out a search or an examination, or violate the privacy of correspondence and telephone conversations, except on lawful grounds and in accordance with the procedure prescribed by law”.

Marriage and family relations in Uzbekistan are regulated by the Family Code and the Constitution. Law stipulates the principles of equality of rights of man and woman in entering into marriage and family life; equality of spouse’s rights in property issues; priority of upbringing children in the family environment.

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<sup>6</sup> ‘Assessment of Juvenile Justice Reform Achievements in Uzbekistan’, UNICEF (2011).

Equality is also provided in choosing surname of spouse or keeping one while entering to marriage and choice of surname after divorce.

Article 15 of the Family Code puts the age of marriage at 18 years for men and 17 for women, but allows that in some exceptional situations (i.e. for good reasons) the age of marriage can be reduced for no more than one year by the decision of a governor.

### **Freedom of expression and access to information / mass media**

The Constitution of the Republic of Uzbekistan<sup>7</sup> guarantees freedom of expression and information: “Article 29. Everyone shall be guaranteed freedom of thought, speech and convictions. Everyone shall have the right to seek, obtain and disseminate any information, except that which is directed against the existing constitutional system and in some other instances specified by law. Freedom of opinion and its expression may be restricted by law if any state or other secret is involved.” Article 30 provides for the right to access information: “All state bodies, public associations and officials in the Republic of Uzbekistan shall allow any citizen access to documents, resolutions and other materials, relating to their rights and interests.” Censorship is prohibited by a 2002 amendment to Article 67 of the Constitution; but the media practices self-censorship. Moreover, a freedom of information law in the form of *the Law on the Principles of and Guarantees for the Freedom of Information*<sup>8</sup> information has been in existence since 1997.

The Law on Mass Media (as amended in 2007) requires foreign mass media representative to be accredited by the Ministry of Foreign Affairs in order to operate within Uzbekistan and for the media outlets to have a licence. The recent update of the law defines “mass media” as including “websites and the social media”

Uzbekistan has wide-ranging legislature, which deals with defamation and libel. Defamation is criminalized under Article 139 of the Criminal Code<sup>9</sup> with correctional labour, monetary fine, and prison terms of up to six years. Libel is criminalized under Article 140 with a monetary fine, correctional labour camp, and imprisonment as possible sentences.

In 2010, the government launched measures for further development of mass-media sector. UNESCO and OSCE provided expertise and put forward a series of recommendations in the framework of a review of the existing laws and the development of new laws on “TV broadcasting” and “Transparency of state authorities”. Draft laws were made public for civil society review and inputs.

In 2011, the government adopted a resolution on ‘additional measures to improve monitoring systems in the field of communications’ to closely monitor and restrict internet sites seen as conducting threatening activities.

Media professional standards need to be further developed in Uzbekistan. Nevertheless, some form of media self-regulation has been introduced by a few organizations, such as Creative Union of Journalists ([www.journalist.uz](http://www.journalist.uz)); National association of electronic mass media ([www.naesmi.uz](http://www.naesmi.uz)); Public Fund for Support and Development of Independent print media and news agencies of Uzbekistan (<http://www.mmf.uz/en>).

### **Right to social security and to an adequate standard of living**

Uzbekistan has set the principle of strong social policy as one of the Government priorities since the start of independence. After the period of uncertainty in the 1990s, economic growth in Uzbekistan has registered consistently high levels since 2004, averaging circa 8% per year in the period 2004-2011, and reaching 8.3% in 2011. Uzbekistan has now joined the ranks of lower-middle income countries. Within

<sup>7</sup> <http://www.gov.uz/en/constitution/#s268>

<sup>8</sup> [http://www.rti-rating.org/pdf/Uzbekistan%20\(2\).pdf](http://www.rti-rating.org/pdf/Uzbekistan%20(2).pdf)

<sup>9</sup> [http://www.ctbto.org/fileadmin/user\\_upload/pdf/Legal\\_documents/national\\_provisions/Uzbekistan\\_CriminalCode\\_220994.pdf](http://www.ctbto.org/fileadmin/user_upload/pdf/Legal_documents/national_provisions/Uzbekistan_CriminalCode_220994.pdf)

the government, this appears to have prompted a rethinking of the policy priorities for social assistance, switching from universal to targeted social assistance schemes, while adhering to the following general principles: i) observe social justice; ii) discourage dependency by households and citizens on social assistance; and iii) strengthen the responsibility of the household for the material well-being of its members, especially children, creating the necessary conditions for their all-round development, including education.

### **Right to health**

Uzbekistan joined the World Health Organization Framework Convention on Tobacco Control (2003), which entered into force in May, 2012 for Uzbekistan.

Uzbekistan adopted the Law “On restrictions on distribution and consumption of alcohol and tobacco products” in October 2011, which set out, among others, conditions for distribution and consumption of alcohol and tobacco products in public places.

Resolution of the President of Uzbekistan, dated November, 2011, «On measures to further deepen the reform of the health system» has determined the main directions of further deepening the reform of the health care system of the country in 2012-2015 and has set out policy measures for 2012-2015, with specific funding sources and implementation schedule, as well as prolonged some tax and customs benefits in this sphere till January, 2018.

Special Program of further measures aimed at strengthening reproductive health, delivering a healthy child, nurturing a physically and spiritually developed generation for 2009–2013 has been adopted. Ministry of Health (MoH) has institutionalized the Near-miss Case Review and Confidential Enquiry into Maternal Death and Epidemiological control of cholera.

The Law “On Reproductive Health” was developed and submitted to the Parliament of Uzbekistan. Its further review and endorsement by the Parliament is pending.

### **HIV-AIDS**

*Law ‘On prevention of diseases caused by the human immunodeficiency virus (HIV)’:*

Entry: As per Article 12 of the HIV Law, foreign nationals entering Uzbekistan are required to present an HIV test certificate confirming their HIV- negative status if they intend to stay in the country for more than 3 months.

Deportation: According to Article 6 of the HIV Law, foreigners or stateless people who have diagnosed HIV-positive during their stay / residence in Uzbekistan may be (please note: may be, not shall be) deported from the country. However, there are no bylaws that would regulate deportation.

Enforcement / implementation: Although the restrictions are in place in the HIV Law, there is no evidence that these provisions have been enforced / implemented so far.

#### *Criminal Code*

- Article 113 of the Criminal Code on criminal liability for infection of other persons by HIV infection as a result of non-compliance or inadequate execution by the person of his professional duties.
- According to Article 120 of the Criminal Code of Uzbekistan, male sex with a man without violence is punishable by imprisonment of up to three years.

According to the Resolution of the Cabinet of Ministers on ‘Approval of the Medical and Social Institutions under the Ministry of Labour and Social Protection of Uzbekistan’ adopted on 23 August 2011 (# 240), disabled people with specific health needs could not be placed in Homes for the Elderly and

Disabled People ("Sahovat"), Homes for the Disabled People ("Muruvvat") and the Republican Home for War Veterans, due to their HIV positive status.

### **Women's rights, gender equality, domestic violence**

Uzbekistan has ratified the Convention on Elimination of all forms of discrimination against women (CEDAW).

Law on Pretrial Detention, in force since September 2011, contains more comprehensive provisions on the rights of pre-trial detainees including special requirements for female and child detainees.

Legislative base for prevention of domestic violence and services for victims does not exist.

### **Rights of persons with disabilities**

New edition of Law "On Social Protection of Disabled people in the Republic of Uzbekistan" was adopted in 2008. The Law of Uzbekistan "On information and library activity", adopted in April, 2011, includes special provision on access of persons with disabilities to the information in the library.

### **Right to development and environmental rights**

Constitution of Uzbekistan defines the rights, duties, and regulations for environmental protection in Uzbekistan.

Over the last 5-7 years Uzbekistan has adopted a number of new laws, revised some laws and developed a number of instruments to achieve regulatory compliance with environmental legislation and relevant international legislation and standards. These amendments are aimed at: providing measures for the introduction of basic legal acts, the need to resolve issues that had not previously been associated with environmental protection, such as community participation, rights and access to information, citizens and, in some cases, compensation damage and other important events. A particular importance in last two years has been given to the draft law "On Environmental Control", which is already at its final stage of agreement.

### **Human rights and counter-terrorism**

At regional level, Uzbekistan ratified the Convention on the counter-terrorism of the Shanghai Cooperation Organization (2009) in December 2011, which is considered as a mechanism of regional security cooperation. Uzbekistan participates as an observer in the regular meetings on the implementation of the UN Global Counter-Terrorism Strategy in Central Asia organized by the CTITF and UNRCCA in cooperation with UNODC. Under this initiative, the Joint Action Plan for the Implementation of the UN Global Counter Terrorism Strategy in Central Asia and Ashgabad Declaration, have been adopted by four Central Asian States (Uzbekistan acted as observer) in November 2011.

The amendments introduced into the Code of Criminal Procedure of Uzbekistan on 28 September 2010 provide for judicial review and appeal of the decision/resolution on extradition taken by the General Prosecutor or his Deputy. They also introduced the principle of non-refoulement prohibiting the expulsion of persons to states where there are substantial grounds for believing they would be at risk of ill-treatment.

Since the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of Children, child prostitution and Child Pornography in 2008 the country has adopted a specific Law on child pornography "On introducing amendments and addenda to the Penal Code of the Republic of Uzbekistan and the Code on Administrative Liability of the Republic of Uzbekistan" of 12 April 2012. This new law amends the provision of Article 130 of the Penal Code by expanding its content and criminalizing such acts as production, importing, dissemination, advertising and demonstration of pornographic materials. The same amendments were introduced into the Code on Administrative Liability

as according to the Uzbek legislation there is administrative liability for the initial commission of abovementioned crimes and only upon second offense it is considered under criminal liability.

## **II. Promotion and protection of human rights on the ground**

### **Rights of children**

Uzbekistan has remained a stable society which places importance on children. The state has allocated increasing resources for social services including health, education and other forms of support for families and children. Since the last Concluding Observations from the International Committee for the Convention on the Rights of the Child in 2006, a law “On the Guarantees of the Rights of the Child” has been adopted, the first two CRC optional protocols have been ratified and second improved National and Regional Plans of Action for Child Well-Being have been adopted for 2011-2013. Compulsory education has been extended from nine years to twelve. A child-friendly schools initiative has made progress. There have been improvements in health outcomes and there are signs of interest from the government in taking a more comprehensive and holistic approach to child protection, including the de-institutionalization of children.

There is no data available on either prevalence or incidence with regards to child rights violations and no systematic means of identifying and supporting children at risk. The emphasis is placed on response services - particularly institutionalization - and working with children after abuses have been committed

There is no national social work service for children and families – only a network of 198 Guardianship and Trusteeship officials (SPON) who are untrained, have a limited mandate and are not subject to rigorous standards. Linkages with other service providers are tenuous.

Observations indicate that while there has been some success in certain regions, the practice of involving children in cotton production continued through 2011. In 2012, the GOU issued an order that went out to all Governorates from the Ministry of Public Education and passed through the Regional Departments of Education to District Education departments and on to schools stating that no children up to School grade 9 would be involved in the harvesting of cotton in 2012. The harvesting period has just begun therefore it is too early to say whether or not children of all ages will be utilized.

### **Equality and non-discrimination**

During 2012, Uzbekistan has been considering the amendments to the Family Code of Uzbekistan, which, if adopted, would equalize the marriage age of girls to boys from previous nobility at 17 to 18 years old.

With respect to non-discrimination, it is noted that gender inequality is in place, particularly in the family context and in more conservative provinces, contributing to unequal participation in secondary education and decision-making.<sup>10</sup> Uzbekistan has good inter-ethnic relations (Schools teach and the media broadcast in several different languages), and the state is not generally partial towards any ethnic group.

### **Migration/ asylum/ statelessness**

In 2008, the Agency for foreign labor migration of Uzbekistan established “hotline” (phone number: +998 71 214-30-76, 214-54-36) for information from citizens on trafficking in persons. The obtained information is analyzed and transmitted to the appropriate law enforcement authorities to take action against the illegal activities of certain businesses and individuals engaged in employment of citizens abroad.

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<sup>10</sup> MDGs in Uzbekistan – Narrowing the gap for children, UNICEF Tashkent 2011.



Despite significant efforts made by the Government of Uzbekistan to improve the current situation, trafficking in persons still seems to be an issue of concern. Men, women, and children are subjected to conditions of forced labor as well as trafficking of women for commercial prostitution. As reported, more crimes of this character have been investigated in Uzbekistan over the past several years, but the number of persons trafficked and abused is not decreasing. In addition to that, more shelters are needed with quality services to cover the needs of all identified victims of human trafficking.

### **Right to life, liberty and security of person**

Regulation on the establishment of the Republican Rehabilitation Centre for Rendering Assistance to Victims of Trafficking in Human Beings was approved by the Decision of the Cabinet of Ministers<sup>11</sup> in 2008. This Centre established in Tashkent city aims to provide urgent medical, psychological, social and legal and other types of assistance to victims of human trafficking. The Regulation also provides monitoring of a victim's family over a period of one year in order to prevent further involvement of a victim to human trafficking.

The Law "On countering trafficking in human beings" contains provisions on the establishment of similar specialized bodies to render support and assistance to victims of trafficking. However, there is no information whether such specialized bodies have been established elsewhere in the Republic.

There are two further shelters for victims of human trafficking run by NGOs as a result of private donations. According to reliable sources a small proportion of the victims they have supported, were minors when they were first trafficked.

There is a separate article in the Law "On countering human trafficking" for rendering assistance to children victims of human trafficking. In particular, it provides that Heads of specialized rehabilitation institutions for rendering assistance to victims of trafficking should inform the Government Trusteeship and Guardianship bodies under the auspices of the Ministry of Education regarding these children.

### **Administration of justice, including impunity, and the rule of law**

Uzbekistan provided sustainability of open source of legislative acts and by-laws for public on <http://www.lex.uz>, which initially had been supported by the UN. This web resource is updated on weekly basis, user-friendly and improves access to legal acts in the country in Uzbek and Russian languages.

There is a concern that children involved in criminal activity that are under the age of criminal responsibility may still be deprived of liberty by being placed under a court order in four "special boarding schools".

Comprehensive review of existing mechanisms of juvenile justice in Uzbekistan conducted in 2010 concluded that the current legislation, although fragmented,<sup>12</sup> is mostly in conformity with international standards, but that its interpretation, application and implementation could be strengthened. In addition, the review noted that the overwhelming majority of legal procedures pertain to juvenile justice rather than the broader issue of justice for children; arrangements for recourse for children to have recourse to the legal system - for example in case of administrative detention, or mistreatment in institutions - have not been made.

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<sup>11</sup> Decision of the Cabinet of Ministers of the Republic of Uzbekistan "On the establishment of the Republican Rehabilitation Centre to Render Assistance and Protection to Victims of Trafficking in Human Beings" # 240 of 5 November 2008

<sup>12</sup> Criminal matters involving offenders under age 18 are governed mainly by special sections of the Criminal Code and the Code of Criminal Procedure adopted in 1994, and the Statute of the Commissions on Minors' Affairs. Other relevant legislation and regulations can be found in the Law on the Guarantees of the Rights of the Child, the Statute of the Commissions on Minors' Affairs, the Code of Criminal Execution, Code of Administrative Liability, the Civil Code, the Civil Procedures Code, the Law on the Basis of Youth Policy and, the Family Code amongst others. Prevention is regulated by the 2010 Law on the Prevention of Child Neglect and Juvenile Delinquency.

In 2008, the President expressed commitment to juvenile justice. Meanwhile, Government agencies recognize the need to build the capacities of the professionals concerned. A draft law consolidating the legislation on juvenile justice was prepared and presented to the Cabinet of Ministers in 2007, but has not been presented to the legislature.

### **Right to privacy, marriage and family life**

2012 has been promulgated by the President of Uzbekistan as the “Year of the Family” and a Special State Programme has been adopted and implemented. In line with this, adopted Law of Uzbekistan “On Family Enterprise” in April, 2012 was an important step in determining and developing the family business.

There is no data available pertaining to forced marriage of children in Uzbekistan. Currently the Family Code allows for marriage of males at the age of 18 years and females at the age of 17 years. This year (2012), the Family Code is expected to be amended, and as a result the minimum age of marriage is expected to be increased to 18 for females also.

### **Right to social security and to an adequate standard of living**

Evidence of poverty and child poverty: According to the available information, poverty among the general population, although falling, remains high. According to national poverty criterion, which uses the consumption of 2,100 kilocalories per day per person as threshold, national poverty rate is reported to have declined gradually from 27% in 2003 to 19% in 2010.<sup>13</sup> Meanwhile, regional disparities remain. While average poverty rate for 2004-2007 in Tashkent city was 6.53% it was registered at 29-32% in Djizzak and Syrdarya, 33% in Surkhandarya, 40% in Kashkadarya and 43.35% in Karakalpakstan.

Families with many children seem most likely to be at risk of poverty. An estimated 28% of households in rural areas have 3-4 children, but among poor families this percentage rises to 40%.<sup>14</sup> The UNICEF Global child poverty study conducted in 2009 found that one in five children lived in households where there was not enough money to guarantee daily intake of animal protein (meat, poultry or fish), and the same proportion had no complete set of winter clothes and footwear.<sup>15</sup>

Social protection: National social protection system is build on the principle of discouraging dependence and provides cash assistance for low-income families and other separate benefits for low income families with children under 2 years old and for low income families with children under 18.

Between 2000 and 2010 the proportion of households receiving low income benefits decreased from 9.2% to 1.2%; the proportion of households with children aged 2-18 receiving child benefits fell from 24% to 13.7%, and the proportion of households with non-working mothers and children under 2 years receiving maternity benefits fell from 100% to 36%. Only the proportion of households with school children receiving winter clothes increased during this period - from 5% to 14%.

While the level of benefits has increased in nominal terms, their value relative to the average wage has dropped: in 1999 the average level of benefit was more than 25% of the average wage, but in 2009-2010 it was less than 10%.<sup>16</sup> Both this and previous research suggest that the level of the benefits under the national social protection system is not sufficient to allow most households to avoid dependency.

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<sup>13</sup>UNDP, National Human Development Report, 2010.

<sup>14</sup>Calculated on the basis of 2007 SSC HBS data. The share of households with 0-2 children is 70%, but 55% among poor households, and 74% among non-poor households. See UNICEF Child Poverty Study, 2009, p14.

<sup>15</sup> UNICEF Uzbekistan: “Uzbekistan: Study on Child Poverty and Disparities”, 2009.

<sup>16</sup> Centre for Economic Research / UNICEF Uzbekistan: Social Protection of Families with Children in Uzbekistan, 2011.

A field study that was conducted within Safety Net analysis revealed that children with disabilities are the most prone to various social risks. The amounts of the pensions given to these groups of children are not enough to meet their essential needs (medicine, special dietary food, nurses, treatment, etc.).<sup>17</sup>

### **Right to health**

Health services: Health system reforms including the shift away from a concentration of services in big hospitals and towards more widespread services such as rural health centres have increased the availability of mother and child health care and preventive and curative services. It is officially reported that literally all births take place in government-supported maternities. Programmes in place include increased coverage of immunization and Vitamin A supplementation. However, more holistic approach may be needed to address maternal and new-born health, nutrition and child health related issues.

The national vaccination schedule is in line with recommendations of WHO. Financing of routine vaccination for children 0-2 is centralized, but routine vaccination for children above 2 years is the responsibility of local government. The government reports high coverage by routine vaccination with the nationwide coverage well above 95%.<sup>18</sup>

There is anecdotal evidence that for consultations and treatment, informal fees are often collected, creating additional barriers for access to healthcare, especially for low income families. There is no nationwide health insurance system. In principle, health services are free in all government facilities, beginning with rural health centres, but in practice there are often cases of shortages of essential medicines, water, electricity, heating arrangements, equipment and hygienic materials. Better monitoring of health services is needed to produce reliable data and ensure systematic measurement of the performance of the health system.

Child and maternal mortality: Ministry of Health official data puts under-5 mortality at 14.8 per 1,000 in 2010. The 2011 report by the UN Inter-agency Group on Child Mortality, on the other hand, estimated under-5 mortality at 52 per 1,000 live births.

In April 2010, the Ministry of Health decreed that every new-born baby must be counted in the health statistics in line with WHO Live Birth Definition (ILBD) criteria so as to harmonize with international reporting standards. Reflecting of this change in official statistics would help remove discrepancies in national reporting and international estimations.

According to national authorities, maternal mortality rate decreased from 34.1 to 21 per 100 thousand live births between 2001 and 2008. The UN Inter-Agency Group on Maternal Mortality estimates that there are 30 deaths per 100 thousand live births.<sup>19</sup> This is a rather high rate given the high level of coverage of deliveries by qualified medical personnel. Moreover, the share of maternal deaths from direct obstetric causes remains relatively high.

Near-Miss Case Review approach was implemented in all regional level maternities. Confidential Enquiry into Maternal Death reviews are conducted at national level as alternative system to old maternal deaths review.

### **Patients' rights**

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<sup>17</sup> Ibid.

<sup>18</sup> The State of the World's Children report, 2011.

<sup>19</sup> The State of the World's Children report, 2012.

Ombudsman's office has been an important corner stone of the development of human rights in health care. Ombudsman of Uzbekistan is a known institution with the goal and objective to support the individual citizen in his or her relation with authorities.

To support the work of the Ombudsman, collaboration between the World Health Organization, Ombudsman and the Ministry of Health in Uzbekistan started in November 2008 with the aim to improve knowledge of health professionals on patients' rights and increase awareness of community and individuals in this area.

### **Right to education**

Overview of formal education: There is a universal formal education system in which almost all children take part. There are nine years of compulsory primary education, and three years of compulsory secondary education in academic lyceums or vocational colleges. Although, large part of the budget is spent on education, parents are often asked for informal payments, some infrastructure deficiencies persist and as in other sectors there is a general lack of effective monitoring of the quality of teaching and educational outcomes. Preschool provision, which is not compulsory, is particularly problematic, resulting in very low enrolment rates, even though primary school does not start until the age of seven.

Pre-primary education: The trend in coverage is declining with current enrolment nationally averaging 17.9% in 2010.<sup>20</sup> This may be attributed to the indexing of parental fees to the minimum wage.<sup>21</sup> Preschool coverage is much higher in Tashkent, 52% and other developed cities where more women are in the workforce, and very low in poorer regions such as Surkandarya where enrolment is at 9.2%.<sup>22</sup> The 2006 MICS showed that children from the wealthiest quintile were nine times as likely to attend preschool as those from the bottom quintile. Children from low-income families are exempt from paying parental fees, but only to a maximum of 15% of enrolment. There is no adjustment for regional disparities and it is unclear how this exemption is applied or monitored.

Physical conditions in pre-school facilities are partially poor and heating can be inadequate in winter, even causing schools to close in some cases. In addition, families often appear to be unaware of the importance of education for children in this age group. Many preschool teachers do not have appropriate pedagogical training and there are very few teaching and learning resources in kindergartens. Training on the rights of the child is being introduced into the curriculum of all pedagogical colleges and in service teacher training institutes in some regions.

Primary education (Grades 1 – 9): Primary education is compulsory and nominally free of charge, and enrolment in primary education is universal or almost universal. There is a system of liaison between local schools and communities to register all children and provide home-schooling where necessary. The system does not define dropping out and absences tend to be excused<sup>23</sup>. There is no monitoring of children moving from one region to another, especially children from migrant families.

Primary education is available in seven different languages, encompassing all relevant minority languages as well as Uzbek depending on local needs. All children learn Uzbek as an additional language.

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<sup>20</sup> State Committee on Statistics.

<sup>21</sup> The minimum wage is merely used as a simplified type of index in order for government to set fees for certain services such as, parental fees for preschool services, funds for traffic offenders, and custom payments to name few.

<sup>22</sup> Ministry of Finance administrative data.

<sup>23</sup> UNICEF has received a proposal from the Ministry of Public Education for a small project to work with families of children who are not attending school. These children are referred to as "delinquents", which implies a culture of punishment rather than that of duty-bearers to ensure a child's right to education.

According to the government, 81% of schools were renovated and 75% furnished with up-to-date equipment and materials as part of the National programme on School Education Development for 2004-2009, which also focused on standards, curricula, textbooks and the qualifications and motivation of teachers. In spite of this, deficiencies in physical infrastructure including sanitation are understood to be in place, particularly in rural areas and less developed regions, while Government studies in 2001 and 2006 found that only 61% of teachers in urban areas and only 36% of teachers in rural areas are adequately qualified<sup>24</sup>. Initiatives to introduce child friendly school standards and upgrade teacher training have had some success and are being institutionalized.

Uzbekistan does not take part in international student assessment programmes, which does not allow comparing the quality of education in Uzbekistan with that in other countries and the regions.

## **HIV-AIDS**

Currently the Government of Uzbekistan is in the process of consideration of the Strategic Program for 2012-2016. It outlines the priority areas, roles and responsibilities of line ministries in managing the country's collective response. However there is still a lack of clear understanding and acceptance of comprehensive package of services on HIV prevention and care for most at risk populations, for example the country does not permit OST (opioid substitute therapy) programs.

The current National Action Plan on HIV adopted in 2009, and the new strategy currently under consideration, aim to combat 'anti-social phenomena' like sex-work and drug use, and to uphold to 'national ideology, mentality and so called cultural aspects', which leads to stigma and discrimination toward most at risk populations in the society.

Drug use and consensual same-sex activity between adults are illegal in the criminal code of Uzbekistan and subject to reporting obligations. This approach results in the exclusion of many persons from testing or treatment, and in difficulties to obtain reliable data on HIV situation in the country. It is recommended to develop an evidence-based national HIV response (know your epidemic, know your response'). AIDS remains a sensitive area, discriminatory attitudes remain prevalent which may result in stigma even against children, and parents of children, contracting HIV in hospital settings. Associated issues include lack of anonymity in testing, absence of counseling, mandatory testing for migrants and stigmatization of migrants accused of bringing the disease into the country.

In order to improve the country's response to the epidemic it is recommended to adopt a zero-tolerance approach to the problem of discrimination and stigmatization of most at risk populations (MARPs), particularly sex workers, injecting drug users and men having sex with men, in order to protect them from unjust treatment, intimidation and violence.

There are difficulties and barriers for discussion of this issue in public, schools/universities and mass-media. It is recommended by the UN to create favourable conditions for allowing the national mass media to inform the public at large of the HIV situation, the modes of transmission and the necessary prevention measures and recommend to promote the wide distribution of creative education, training and media programmes explicitly designed to change attitudes of discrimination and stigmatization associated with HIV.

Uzbekistan made some progress in the area of Pediatric HIV and Prevention of Mother to Child Transmission; pilot day-care centers and psycho-social support services were established. The government also started to discuss the possibility of contributing to ARV procurement using state budget resources. Bearing in mind the gradual increase of numbers of people in need of treatment and the existing limited donor support, the UN are encouraging these efforts of gradual state funding for ARV drug procurement.

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<sup>24</sup> Government administrative data.

However the existing HIV services delivered by the government run AIDS Centre network are largely concentrated in urban areas and services elsewhere are unevenly distributed. Seemingly,, engagement of civil society and of people living with HIV is limited, even inexistent in some regions.

The UN are concerned over difficulties in obtaining registration for domestic and international NGOs and recommends that registration procedures for civil society organisations be applied fairly, transparently and without discrimination. It suggests identifying areas where technical assistance would be welcomed by the country, especially in the areas of translating international human rights norms into practical observance in the context of HIV followed by strengthening Uzbekistan's collaboration with international civil society actors involved in the response to HIV/AIDS.

In conclusion, the UN reiterates that public health interests do not conflict with human rights. On the contrary, it has been recognized that when human rights are protected, fewer people become infected and those living with HIV and their families can better cope with HIV and AIDS.

### **Women's rights, gender equality, domestic violence**

Upon receipt of CEDAW Committee recommendations, National Action Plan on their implementation was developed in collaboration by the Women's Committee, National Human Rights Institution and other ministries and agencies as well as NGOs. The plan and inter-agency working group was approved by the Prime-Minister. More needs to be done to create the mechanism for coordination of implementation, clear monitoring and evaluation by state and civil society of the CEDAW National Action Plan in Uzbekistan.

Institutional base for prevention of domestic violence and services for victims are limited (2-3 NGO based shelters) in the country.

The last elections have increased the number of women in the Legislative Chamber of Uzbekistan to 22% and in the Senate to 15%. Women make up 21% of judiciary and only around 6% of the executive, management positions in economic sector are occupied in 27% by women and in 73% by men and women make up only 23% of all entrepreneurs.

While the gender balance is attained in primary and secondary levels of education, higher education participation is low among women; their ratio to men is 0.679 among student body.

Women represent 58.6% of retired workforce. Women are predominantly responsible for home and child care responsibilities, thus combining both paid and unpaid work. Statistically they spend nearly 3.5 times as much on unpaid work. While there is no reliable data on the total number and ratio of migrant workers research shows that women earn on average 25% less than their male counterparts.

Annual territorial state programs of women's employment are developed since 2005 in each district/city in response to regional programs to create jobs and employment. Based on the approved state program of employment a quota for employment of women and youth is introduced. With UN support the State Programme on Employment for 2012 includes gender/disability analysis and sex-disaggregated data.

The government has made some efforts to introduce CEDAW and disseminate Committee recommendations as part of legal education curricular and training for law enforcements as well as among general public through translation into Uzbek and organization of trainings, handout materials and other awareness raising events.

### **Rights of persons with disabilities**

In spite of a strong legislative framework for ensuring full inclusion in society for persons with disability, social discrimination remains a significant obstacle to full participation. In Uzbekistan, the idea that a disabled person is an equal member of society, with equal rights and full inclusion in society is not a popular notion with broad-based support. National and local authorities still demonstrate limited capacity

to enforce and institutionalize inclusion, and the general society stigmatizes disabled people, leading to widespread discrimination and further isolation in their homes or in institutions.

As is the case in many developing countries, living with disability in Uzbekistan accentuates the likelihood of poverty. A field study that was conducted within Safety Net analysis revealed that children with disabilities are the most prone to various social risks. The amounts of the pensions given to these groups of children are not enough to meet their essential needs (medicine, special dietary food, nurses, treatment, etc.).<sup>25</sup>

### **Right to development and environmental rights**

To promote the concept of sustainable development the Environmental Movement of Uzbekistan ([www.eco.uz](http://www.eco.uz)) was established in August 2008, and has 15 representatives at the Legislative Chamber of Oliy Majlis of Uzbekistan, where they have direct and effective impact on the improvement of environmental legislation and public health.

Different regions in Uzbekistan are susceptible to a variety of natural disasters: earthquakes, floods, mudslides, avalanches, and drought. A small assessment by UNICEF and the Ministry of Emergency Situations in 2010 of 18 schools, 8 preschools, and 26 *mahallas* in 13 regions found that schools and communities were inadequately prepared to ensure the safety of children in the event of a natural disaster.<sup>26</sup> There has not been an assessment of risks associated with man-made disasters or conflict.

The Government has approved a program to train children, teachers, school managers, and community groups on earthquake preparedness. The 2010 study found that while there is monitoring of building safety in 50% of school institutions, 33% of schools and 50% of preschools didn't meet construction standards. In the study, 30% of schools and only 15% of the *mahallas* had preparedness plans and most did not have joint action plans.

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<sup>25</sup> Ibid.

<sup>26</sup> UNICEF, DIPECHO VI Programme: Joint Project of the Ministry of Emergency Situations and UNICEF, "Risk Reduction in the Communities Mostly Exposed to the Natural Disasters in Uzbekistan," 2010.