

An alternative observational report on the situation in Uzbekistan presented to the 3rd session of the UN Council for human rights under the UPR procedure (December 2008)

Concerning: **The right to a free and fair election. The right to freedom of movement. Child labour in cotton growing. The freedom of association. Human rights activists' current situation.**

BACKGROUND. A regime relying on repressive measures continues reigning in Uzbekistan. In spite of the fact that the government has undertaken actions aimed at improving the human rights situation (a law abolishing of capital punishment came into effect in 2008, the *habeas corpus* act was adopted, the International Labour Convention No. 138 concerning the minimum age and Convention No. 182 on the prohibition of the worst forms of child labour were signed; a mission of the International Red Cross was granted permission to visit penitentiary centers; several civil activists have been released from detention) the overall situation has barely changed. Moreover, a wide-scale systematic oppression is growing aimed at any forms of criticism or peaceful opposition to the violation of civil, political, economic and cultural rights and liberties. It has become life- and health-threatening to disseminate information aimed at protecting political activists, independent press and journalists. The civil society is denied basic rights and liberties; passive acceptance of injustice is becoming the only way of survival. Authorities are particularly aggressive towards open statements that human rights activists make regarding forced child labour. Current manifestations of lawlessness and injustice show that UN Committees' recommendations on regular reporting and considerations on individual appeals in line with the International Pact on Civil and Political Rights (IPCPR) are not being implemented.

Key words: *the right to a free and fair election; freedom of assembly and peaceful rallies; freedom of movement; forced child labour, the right to access education; the right to protect children from a harmful working conditions.*

▪ **1. The right to participate in state governance: free and fair elections**

The lack of compliance of the national legislation on elections with international norms has resulted in violation of the right to a free and fair election during the parliamentary and presidential elections in 2004 and 2007 respectively.

The parliamentary elections took place on 26 December 2004 under the total control and coordination by the presidential administration. The president appointed the chairman and members of the Central Electoral Committee (CEC) who were later approved by the parliament¹. The current bi-chamber parliament allows the president to control the legislative power

There are three opposition parties in Uzbekistan: Birlik, Ozod Dehqonlar and Erk. None of these parties is officially registered because authorities perceive any sort of criticism as a threat to the current state administration system. These opposition parties were unable to nominate their candidates for the past elections because their applications to get registered have all been declined.

¹ Uzbekistan introduced a bicameral parliament in 2005. The upper house has 100 senators and the lower house – 120 deputies. 16 senators are appointed by a presidential decree, the rest are elected from oblast, rayon and town councils. The legislation provides for the president-appointed heads of local state administrations on the oblast-, rayon- and town-level to be speakers of their respective oblast, rayon and town councils.

The law on political parties of the Republic of Uzbekistan stipulates that parties may be abolished following their founders' decision or a court verdict. The Erk party was registered on 3 September 1991 and the Birlik movement² was registered on 11 November 1991. However, the ministry of justice adopted a decision revoking their official statutes in October 1993 notwithstanding the fact that the ministerial competence is confined to registering legal entities.

The Birlik party made two attempts to register in view to participating in the 2004 parliamentary elections. On 24 December 2004, that is two days ahead of the elections, the ministry of justice notified of its decision to decline registration based on petty formalities. While the party has then decided to nominate its candidates as independent ones; the CEC still has not registered them using various excuses. The Ozod Dehqonlar party faced a similar treatment.

The presidential elections on 23 December 2007 allowed Islam Karimov to have stayed in power ever since 1989 and to be elected for the third consecutive term in the office thus violating Article 90 of the Constitution which sets out that “*no single person shall be entitled to be elected as the president of the Republic of Uzbekistan more than two consecutive terms*”.

Political opponents and all those who protested against Islam Karimov's nomination were subjected to administrative and criminal persecution (*for more information please see attachment 1*).

▪ **2. The right to freedom of movement**

The current legislation of Uzbekistan does not provide a specific definition of the right to freedom of movement and the right to choose a habitat. This has resulted in arbitrary limitations of movement of Uzbek nationals and permanent residents. On 15 April 1999, amendments were introduced into the administrative code of the Republic of Uzbekistan whereby a fine equivalent to three minimal salaries is imposed in case of the violation of the passport registration norms. The currently applicable registration regime has been underpinned by provisions of Attachment No 1 to the Uzbek president's decree on the passport system in the Republic of Uzbekistan No UP-2240 effective as of 26 February 1999. On 4 April 2004, with amendments and addenda to this decree introduced in line with Point 1 of the Uzbek president's decree No UP-3441 (*for more information see attachment 3-3.5*).

Since 2004, rural residents' economic and labour migration to urban areas has been closely watched on the grounds of controlling the inflow of Islamic fundamentalism ideas. Civil society activists, particularly convicted and imprisoned one, have also faced difficulties moving within the country after the Andijan tragedy (*for more information please see attachment 4*).

On 6 January 1995, the cabinet of ministers of Uzbekistan adopted a regulation which laid down the requirements for Uzbek nationals who wish to travel abroad. In line with the document, each citizen intending to leave the country needs a permission (an exit visa) from a Ministry's of Interior office in charge of entering to and exiting from the country (OVIR) in his/her place of registration³, which allows controlling citizens travelling abroad. At the same time, Article 223 of Crime Code provides for a 10 year term in jail for leaving or entering the Republic of Uzbekistan or crossing borders in a non-compliant manner.

² The Birlik party was reformed into the Popular Movement of Uzbekistan

³ Passport registration is a state system of controlling migration. It was inherited from the ex-USSR and is currently enforced in a number of post-Soviet countries including Uzbekistan. Its principal is unconditional attachment of citizens to their permanent residence areas.

In most cases, authorities refuse exit visas to human rights activists, representatives of political opposition and journalists. During the last two years, students and labour migrants abroad had difficulties extending the validity term of their exit visas because Uzbek embassies no longer accepted extension applications as they used to do before. Instead, embassies recommend such citizens to apply with the interior ministry's departments in their places of registration in Uzbekistan. To our knowledge, many citizens have been interrogated by law-enforcement agencies upon their return to Uzbekistan. We also have been made aware of the cases where even those citizens who left the country with labour or student visas have been criminally persecuted on the grounds of the aforementioned Article 223.

Law-enforcement agencies and judicial bodies systematically refuse taking into account the fact that these people left the country legally and have the right to return when they think fit. The limitations enlisted above violate Article 12 of the International Pact on Civic and Political Rights.

▪ 3. Child labour in cotton growing

Uzbekistan ratified the UN Convention on child rights and the International Labour Convention concerning the minimum age and prohibiting the worst forms of child labour. The country's constitution, the Labour Code, and the law on Ensuring Child Rights, adopted in 2007, prohibit the use of child labour for children under 15 and provide for state protection of children from all types of exploitation. However, the reality is contrary to the national regulatory framework and international obligations assumed by Uzbekistan.

Over 2 million children aged between 10 and 15 are involved in cotton picking every year. They are taken away from educational process for up to two months. Mass and forced engagement of children in cotton growing in Uzbekistan takes place in line with instructions of regional heads of administrations (hokims). School principals ensure schoolchildren's attendance in cotton picking based on hokims' orders (*for more information please see attachment 5.1-5.2*). Schoolteachers stay with schoolchildren throughout the season to watching closely that the cotton picking norms are respected. Certain information sources suggest that schoolteachers have been criminally persecuted for not taking children onto cotton fields. There are facts of expelling children from schools for refusing to pick cotton (*for more information please see attachment 5.1*). Farmers are, too, significantly dependent on local administrations. A number of farmers have not been allowed to rent land on the grounds of petty formalities, the true reason having been their refusal to use children in cotton-picking (*for more information please see attachment 5.3*).

The highest echelons of power are aware and approve of using children in cotton picking campaigns in Uzbekistan. Cotton is the country's main export commodity. Revenues settle not only in the state treasury but also in personal wallets of those who control the cotton export. The state benefits from cheap labour and encourages the use of forced child labour. The personal career of every local governor is directly dependent on fulfilling state orders.

Children are obliged to pick the same amount of cotton as the elders: between 20 and 50 kilograms per day or more depending on the age of a child. They are paid between 0.03 and 0.05 US cents for each kilogram of cotton they have picked. Children suffer poor nutrition, lack of drinking water and health services during the harvesting season. Even the basic hygiene is not respected there. Children work without days-off, at least 8 hours a day, and pick up bags with 15-20 kilograms of cotton. Children work in the fields treated with pesticides, herbicides and defoliants despite the lack of evidence as to their impact on a child body. Official statistics on child diseases covering this period are not publicized. However, it is known that many children suffer from the hepatitis, anemia, feet infection and other diseases due to the lack of basic hygiene. Poor quality food is causing diseases of the gastro-intestinal tract. Girls often suffer gynecological diseases due to lack of hygiene.

As a rule, children live in premises with no cold and hot water, sewage and/or heating during the harvesting season. Harsh working conditions of the cotton fields led to several lethal cases in 2007 alone; however, such information is carefully concealed (*for more information please see attachment 5.4-5.5*).

▪ **4. Freedom of association**

On 4 April 2005, the ministry of justice of Uzbekistan has ignored the registration application submitted by the Birlik Popular Movement of Uzbekistan party, which was the fifth attempt to register the party. Article 8 of the Uzbek law On Political Parties reads: *'applications for registering political parties are considered within a month after the submission date. Based on findings, a decision is adopted to either register or decline the party's registration. The decision is handed over or sent by mail to the leading body of the political party not later than three days after its adoption'*. The Birlik party's application has not been reviewed within the statutory period, and the Ministry of justice has not notified of its decision according to legal norms. No sooner than on the 18 April 2005, following numerous demands on part of the Birlik leadership, the ministry informed the party representatives of its decision. However, the ministry has again violated the law and adopted a decision not to consider the Birlik party's application. The ministry of justice's decision reads that signatures and personal data of about 3,000 out of total 22,000 members are falsified. However, the ministry has declined to specify the signatures that it alleged to be false and no evidence or handwriting experts' conclusions were provided. Appealing against the ministry's decision proved to be impossible because judicial bodies have deemed the claim unacceptable.

The NGO 'Mothers Against Capital Punishment and Torture' was denied registration for the first time in 2002. The ministry of justice pretended to be unwilling to register an organization with such a name. The NGO reapplied for registration in January 2003 under the new name – 'Mothers Against Crimes Against Persons', but the ministry still has not taken a decision on the case.

New rules for registering non-government organizations and their reporting procedures were introduced in 2004. In line with the latter, NGOs working in Uzbekistan are obliged to coordinate all of their activities with the ministry of justice including their agendas, dates and locations of events, and they are obliged to involve a representative of the ministry in those events. Such innovations resulted in closing of the offices of the Open Society Institute, the Internews and other organizations.

The National Association of Non-governmental and Non-profit Organizations of Uzbekistan (NANNO Uz) was established in June 2005 and united 5,180 NGOs. Over 300 of these organizations were closed by juridical bodies based on the justice ministry's appeals in 2005 to 2007. Many indications suggest this process is going to continue because authorities call this period "a reevaluation" of NGOs' and international funds' and representations' activities, particularly those of human rights organizations *for more information please see attachment 6*.

▪ **5. Current situation of human rights activists**

The finding by our organizations suggest that over 70 active human rights advocates have been subjected to persecutions during the last three years; some were imprisoned whereas other were forced to flee the country to escape arrest. Human rights activists are held accountable for their actions due to political reasons behind although criminal cases against them are launched and investigated on the basis of such criminal charges as accountability for fraud, embezzlement of large-scale property, bribe giving and other types of crime qualified as grave or particularly grave. These articles provide for a long prison terms as a punishment. Such a method of eliminating those with active civic position allows the Uzbek government to mislead the international community and

claim that there are no political prisoners and repressions against dissent in Uzbekistan. Activists continue working inside the country in high-risk environment.

▪ **6. Recommendations:**

To the government of the Republic of Uzbekistan

1. We recommend the government to respect obligations provided for in international agreements in the field of human rights abiding by the *pacta sunt servanda* principle;
2. In order to respect the right to participate in state affairs management, the president of Uzbekistan should: no longer appoint members of the parliament and nominate Senate speaker candidates, thus letting the Senate members to cater for it independently; and introduce elections of heads of oblast-level administrations and Tashkent City mayor;
3. They recommend the government to adopt a passport law introducing a notification procedure for registering permanent residence and stay, including for temporary residents. The practice of permitted registration in temporary residences, permanent passport registration, arrival and departure must be cancelled. To date, this practice is provided for by Attachment No 1 to the Uzbek president's decree on the passport system in the Republic of Uzbekistan No UP-2240 effective as of 26 February 1999. On 4 April 2004, amendments and addenda were introduced into this decree in line with Point 1 of the Uzbek president's decree No UP-3441. These bylaws are contrary to the Article 12 of the IPCPR on the right for freedom of movement;
4. In order to secure the prohibition of forced labour, we recommend the government to abandon the practice of using forced child labour in all fields of economy, including the cotton growing sector;
5. In order to respect the right to education, we recommend the government not to withdraw schoolchildren from the educational process by forcing them to engage in seasonal fieldwork that cause harm to health;
6. Enforce the fundamental right to freedom of association and allow for the registration of opposition political parties and public organizations, renounce the practice of state interference into the civil society's activities;
7. Having assumed the obligation to ensure the freedom of speech, the freedom to search, receive and disseminate information, the government should give up the practice of persecuting the individuals who inform the public on human rights violations;
8. Allow the UN special rapporteur on protecting the rights of human rights advocates to visit Uzbekistan with a fact-finding mission.

Nadejda Atayeva, the president of the Association for Human Rights in Central Asia, prepared the report. The advisor: the International Federation for Human Rights (FIDH)

Attachments:

[1.] On 6 December 2007, Yusuf Juma and his two sons launched a series of protests in Karakul rayon of Bukhara oblast calling for president Islam Karimov's resignation. Their rallies lasted for several days. On 10 December 2007, a group of Uzbek special task force soldiers stormed Yusuf Juma's home and demolished everything. They produced no search or arrest warrants; shot at locks to break doors and crushed the poet's property and archives. The poet family's two dogs and other domestic animals were killed. Firearms were used against unarmed civilians but none of officials was held accountable for this. On 17 December 2007, the dissident poet Yusuf Juma was arrested and was later convicted to five years of imprisonment.

[2.] The Alliance for Human Rights of Uzbekistan staged several protests in 2007 within the public programme entitled For the Right to Participate in State Management: Free and Fair Elections. On 18 October 2007, Abdillo Tajiboy ugli and Akhtam Shaymardanov met Mr Adylov Komiljon, a representative of the Central Electoral Commission of Uzbekistan. Human rights activists reminded that Islam Karimov's participation in the presidential elections contradicts Article 90 of the constitution of Uzbekistan. They were forced to flee Uzbekistan after six months following the presidential elections. They felt a threat of arrest in homeland and have therefore appealed for international protection.

[3.] A list of bylaws on the passport system that contradict Article 12 of the International Pact on Civic and Political Rights:

[3.1.] President Islam Karimov's decree on bringing into force the decree on the passport system in the Republic of Uzbekistan; effective as of 23 December 1994;

[3.2.] Attachment No 1 to the presidential decree No UP-2240 to the decree on the passport system in the Republic of Uzbekistan; effective as of 26 February 1999;

[3.4.] A presidential decree on introducing amendments and addenda No UP-3441, effective as of 4 June 2004, to the presidential decree No UP-2240 on improving the passport system in the Republic of Uzbekistan, effective as of 26 February 1999;

[3.5.] Attachment No 2 to the presidential decree No UP-2240 on residence permits for foreign nationals, stateless persons and statelessness certificates; effective as of 26 February 1999;

[3.5.] On 15 April 1999, the Uzbek president approved of amendments to Article 223 of the crime code on administrative accountability. A fine of one to three minimal salaries would hereinafter be imposed on violators of passport regulations, i.e. violation of passport registration, residence without a passport or using an invalid passport, absence of permanent or temporary passport registration. Thus, fines imposed on passport regulation violators were tripled compared to the previous decree's provisions!

[4.] According to the Association's information, Jizzak-based human rights activists Bakhtiyar Khamrayev is under constant surveillance of law-enforcing agencies. On 11 December 2006, he was unable to leave Jizzak for traveling to participate in a US embassy-hosted reception on the occasion of the International Human Rights Day in Tashkent. The absence of the exit visa (OVIR) prevented Khamrayev from traveling to a workshop for human rights activists in Turkey on 23 to 25 January 2007. 12 other human rights activists were unable to travel with him due to hindrances imposed by authorities. On 5 June 2008, Khamrayev had to undertake several attempts to leave Jizzak for Tashkent to participate in a workshop on forced child labour in cotton growing in Uzbekistan;

[4.1.] On 2 June 2008, human rights activists Ms Mutabar Tajibayeva was released from imprisonment due to her health level. Human rights activists Mutabar Tajibayeva was permitted to leave Margilan for traveling to Tashkent for medical treatment only following an interference by the French foreign ministry.

[5.] The association has a copy of a log-book of a school in the Fergana Valley. Pages covering the period between 4 September and late October 2007 indicate schoolchildren's absences in classes and a diagonal handwritten note reads "Gone to cotton-picking". This is the period when the cotton season is at its height and whole schools' children are taken onto fields and youngest ones can be as young as 10 years old, and frequently even 8. Academic institutions shift onto half closed regime of work.

[5.1.] The principal of a college in Gallaaral rayon of Jizzak oblast, Mr Ravshanov I, has filed an official letter to the head of rayon administration, Mr Khushbokov A, and the rayon prosecutor, Mr Rajabov U, with a request to punish those students who refused to participate in the cotton picking campaign of 2007. The letter enlists the names of those college students: S. Ibragimov, H. Tursunova, B. Mamatov, S. Abdurakhmonov, A. Berdimurodov, U. Khayitboyev, B. Tangrikulov, B. Mirzabekova and S. Narzullayeva. These students were later excluded from the college. However, thanks to making this letter publicly known, the children were admitted to studies in the college.

[5.2.] In 2005, the director of a medical college in Jizzak oblast, Mr Uralov (we were unable to verify his first name), was fired and later arrested on financial fraud allegations. Although, he was actually removed from his position because his students did not participate in cotton-picking. The head of the oblast administration, Ubaydulla Yamankulov, has beaten up the director in eyewitnesses' presence, handcuffed him onto a window fence. The head of the oblast administration Yamankulov commanded to shoot this scene of violence on a videotape.

[5.3.] On 17 August 2004, 32 farmers from Jizzak rayon appealed to the president of Uzbekistan, Islam Karimov, with a complaint that they are illegal deprived of land lots. The state reacted immediately – they all were summoned to the oblast administration and hokim Yamankulov beaten up all the farmers in presence of 60 police officers until the farmers "confessed they have voluntarily given up the land lots".

[5.4.] Between 22 September and 29 November 2007, 15-16-year-old students of the Jizzak medical college were picking cotton in Bahmal rayon of Jizzak oblast as per orders received from the head of local administration, Mr Anarbayev M.T. A tragedy took place in October – an agriculture tractor has ran over the sleeping Abdullayeva Gavkhar who fell asleep on a seedbed from fatigue. The girl has died instantly. All the eyewitnesses have given written promise not to publicize the fact.

[5.5.] In autumn of 2007, a tractor trailer ran over two minor girls in Navoi oblast during the cotton-picking season. All the eyewitnesses of the event have given written promise on non-disclosure of information.

[6.] In 2007, R. Sarbayev, the director of the national association of non-government and non-profit organizations of Uzbekistan, has said: *"Following the revolutions in Georgia, Ukraine and Kyrgyzstan, a process of reevaluation of NGOs' and international funds' and representations' activities, particularly those of human rights organizations is taking place in CIS countries."*