



***Concluding observations of the Human Rights Committee :
Uzbekistan. 26/04/2005.
CCPR/CO/83/UZB. (Concluding Observations/Comments)***

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HUMAN RIGHTS COMMITTEE
Eighty-third session

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

Concluding observations of the Human Rights Committee

UZBEKISTAN

1. The Human Rights Committee considered the second periodic report of Uzbekistan (CCPR/C/UZB/2004/2) at its 2265th, 2266th and 2267th meetings (CCPR/C/SR.2265-2267), on 21 and 22 March 2005, and adopted the following concluding observations at its 2278th and 2279th meetings (see CCPR/C/SR.2278 and 2279), on 31 March 2005.

A. Introduction

2. The Committee welcomes the timely submission of Uzbekistan's second periodic report which was prepared in accordance with the Committee's guidelines, and notes the written replies to the list of issues and the replies to the Committee's additional questions. It also notes the follow-up information provided by the State party on the concluding observations on its initial report.

B. Positive aspects

3. The Committee notes with appreciation the positive effect of legal reform in the area of criminal law on the overall number of remand prisoners and convicted persons serving their sentences.

4. The Committee notes with interest that, following the 2004 revision of the Act on the Parliamentary Ombudsman (1997), the Ombudsman's institution is now operational and receives numerous complaints each year. The Committee encourages promotion of the work of this institution.

5. The Committee welcomes the State party's invitation to national non-governmental organizations "to participate actively" in current discussions on Criminal Code reform.

C. Principal subjects of concern and recommendations

6. The Committee recalls that in several cases, the State party has executed prisoners under sentence of death, although their cases were pending before the Committee under the Optional Protocol to the Covenant and requests for interim measures of protection had been addressed to the State party. The Committee recalls that in acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction. Disregard of the Committee's requests for interim measures constitutes a grave breach of the State party's obligations under the Covenant and the Optional Protocol.

The State party should adhere to its obligations under the Covenant and the Optional Protocol, in accordance with the principle of *pacta sunt servanda*, and take the necessary measures to avoid similar violations in future.

7. The Committee is concerned about the lack of information on criminal cases and convictions, including the number of prisoners sentenced to death, grounds for conviction and the number of executions (Covenant, art. 6; see also paragraph 6 of the Committee's concluding observations on the State party's initial report).

The State party should supply data on the operation of its criminal justice system and provide information on the number of prisoners sentenced to death and executed since the beginning of the period covered by the second periodic report. The State party should in future publish such information periodically and make it accessible to the public.

8. The Committee remains concerned about information before it that when prisoners under sentence of death are executed, the authorities systematically fail to inform the relatives of the execution, defer the issuance of a death certificate and do not reveal the place of burial of the executed persons. These practices amount to a violation of article 7 of the Covenant with respect to the relatives of the executed persons (Covenant, art. 7).

The State party is urged to change its practice in this regard, in order to comply fully with the Covenant's provisions.

9. While it has noted with interest that in 2003 the Supreme Court of Uzbekistan handed down a judgement pursuant to which the provisions of national law relating to torture must be read in the light of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee remains concerned at the apparently narrow definition of torture in the State party's Criminal Code (art. 120) (Covenant, art. 7).

The State party should amend the relevant provisions of its Criminal Code in order to avoid misinterpretation not only by the judiciary, but also by its law enforcement authorities.

10. The Committee is concerned about the continuing high number of convictions based on confessions made in pre-trial detention that were allegedly obtained by methods incompatible with article 7 of the Covenant. It also notes that, while on 24 September 2004 the Plenum of the Supreme Court held that no information

obtained from a detained individual in violation of the criminal procedure requirements (including in the absence of a lawyer) may be used as evidence in court, this requirement is not reflected in a law (Covenant, arts. 7 and 14).

The State party should proceed with the necessary legislative amendments to ensure full compliance with the requirements of articles 7 and 14 of the Covenant.

11. The Committee is concerned about allegations relating to widespread use of torture and ill-treatment of detainees and the low number of officials who have been charged, prosecuted and convicted for such acts. It is a matter of further concern that no independent inquiries are conducted in police stations and other places of detention to guarantee that no torture or ill-treatment takes place, apart from a small number of inquiries with external participation quoted by the delegation (Covenant, arts. 7 and 10).

The State party should ensure that complaints of torture and/or ill-treatment are examined promptly and independently. Those responsible should be prosecuted and punished in accordance with the seriousness of the crime committed. All places of detention should be subject to regular independent inspection. Provision should also be made for the medical examination of detainees, in particular persons held in pre-trial detention. The use of audio and video equipment in police stations and detention facilities should be considered.

12. The Committee is concerned that there is no law governing expulsion of foreigners from Uzbekistan and that expulsion and extradition are regulated by bilateral agreements, which may allow for the expulsion of aliens even if they may be subjected to torture or ill-treatment in the receiving country (Covenant, arts. 7 and 13).

The State party should adopt the necessary norms to prohibit the extradition, expulsion, deportation or forcible return of aliens to a country where they would be at risk of torture or ill-treatment, and should establish a mechanism allowing aliens who claim that forced removal would put them at risk of torture or ill-treatment to file appeals with suspensive effect.

13. The Committee is concerned that the provisions of the Constitution on states of emergency and related laws do not explicitly specify, or place limits, on the derogations from the rights protected by the Covenant that may be made in emergencies, and do not guarantee the full implementation of article 4 of the Covenant (Covenant, art. 4).

The State party should review the relevant provisions of its domestic law and bring them into line with article 4 of the Covenant.

14. The Committee considers that the length of custody for which a suspect may be held without being brought before a judge or an officer authorized to exercise judicial power - 72 hours - is excessive (Covenant, art. 9).

The State party should ensure that a judge reviews all detentions to determine if they are legal and that all cases of

detention are brought before a judge for that purpose, in conformity with the provisions of article 9 of the Covenant.

15. The Committee notes that while under domestic law individuals have access to a lawyer at the time of arrest, this right is often not respected in practice. Those accused of criminal acts should receive effective assistance from a lawyer at every stage of the proceedings, especially in cases where the person is liable to the death penalty (Covenant, arts. 6, 7, 9, 10 and 14).

The State party should amend its legislation and practice to allow a person who has been placed under arrest to have access to a lawyer from the time of arrest.

16. The Committee remains concerned that the judiciary is not fully independent and that the appointment of judges has to be reviewed by the executive branch every five years (Covenant, art. 14, para. 1).

The State party should guarantee the full independence and impartiality of the judiciary by guaranteeing judges' security of tenure.

17. The Committee remains concerned that the administration of pre-trial detention centres, prison camps and prisons fail to conform to the provisions of the Covenant (Covenant, arts. 7, 9 and 10).

The State party should give priority to its review and reform of the administration of the penal system.

18. The Committee is concerned about the lack of information on acts that may be qualified in the legal order as "terrorist acts" (Covenant, arts. 2, 6, 7, 9 and 14).

The State party should define what constitutes "terrorist acts" and ensure that its legislation in this matter complies with all the guarantees provided in the Covenant, in particular articles 2, 6, 7, 9 and 14.

19. The Committee is concerned that the State party requires an "exit visa" from its nationals for their travel abroad, and in particular that representatives of non-governmental organizations who were refused an exit visa were thereby prevented from attending meetings on human rights issues (Covenant, arts. 12 and 19).

The State party should abolish the requirement of an exit visa for its nationals.

20. The Committee is concerned about persistent reports that journalists have been harassed in the exercise of their profession (Covenant, art. 19).

The State party should adopt appropriate measures to prevent any harassment or intimidation of journalists and ensure that its legislation and practice give full effect to the requirements of article 19 of the Covenant.

21. The Committee remains concerned about the legal provisions and their application that restrict the registration of political parties and public associations by the Ministry of Justice (Covenant, arts. 19, 22 and 25; see also paragraph 23 of the concluding observations on the initial report).

The State party is requested to bring its law, regulations and practice governing the registration of political parties into line with the provisions of articles 19, 22 and 25 of the Covenant.

22. The Committee notes that the provisions of the Freedom of Conscience and Religious Organizations Act require religious organizations and associations to be registered in order to be able to manifest their religion or belief. It is concerned about de facto limitations on the right to freedom of religion or belief, including the fact that proselytizing constitutes a criminal offence under the Criminal Code. The Committee is also concerned about the use of criminal law to penalize the apparently peaceful exercise of religious freedom and the fact that a large number of individuals have been charged, detained and sentenced and that, while a majority of them were subsequently released, several hundred remain in prison (Covenant, art. 18; see also paragraph 24 of the concluding observations on the initial report).

The State party should take steps to ensure full respect for the right of freedom of religion or belief and ensure that its legislation and practices conform fully with article 18 of the Covenant.

23. While noting with interest information provided by the delegation that a system of compensation for women who are victims of domestic violence is already in place in parts of the State party, the Committee remains concerned about the prevalence of domestic violence in Uzbekistan (Covenant, arts. 3, 7 and 26; see also paragraph 19 of the Committee's concluding observations on the initial report).

The State party should take suitable practical measures to combat this phenomenon, including through public awareness and education campaigns.

24. The Committee regrets that even though the Criminal Code prohibits polygamy, the phenomenon persists, violating women's dignity. It is also concerned about the practice of kidnapping young women to force them to marry, which resurfaced after the State party's independence (Covenant, arts. 3, 23 and 26).

The State party should ensure that the relevant provisions of its Criminal Code are fully implemented, so as to put an end to the practice of polygamy. It should combat the practice of forced marriages of kidnapped women.

25. The Committee notes that child labour is still widespread in Uzbekistan, in particular in the commercial and agricultural sectors and the cotton industry (Covenant, art. 24).

The State party should stop the practice of sending schoolchildren to pick cotton and take effective measures to combat child labour.

D. Dissemination of information about the Covenant (art. 2)

26. The Committee sets 1 April 2008 as the date for the submission of Uzbekistan's third periodic report. It requests that the State party's second periodic

report and the present concluding observations be published and widely disseminated in Uzbekistan, to the general public as well as to the judicial, legislative and administrative authorities, and that the third periodic report be circulated for the attention of the non-governmental organizations operating in the country.

27. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 7, 9, 10 and 11 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.



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